AGENDA

DISASTERS: THE EMERGING D&O, E&O AND CORPORATE RISKS:
What you need to know, and how to manage, mitigate and resolve those risks
February 05, 2019
Fordham University School of Law
150 W 62nd St. New York, NY 10023

In two months of 2018, fires in California alone resulted in losses in the billions – creating layers of liability, liquidity and solvency issues.
- Estimates that losses from the Camp and Woolsey fires in California may exceed $20 billion.

According to Swiss Re, total economic losses from natural and man-made disasters in 2018 are preliminarily estimated to be $155 billion, and global insured losses from catastrophes in 2018 are estimated to be $79 billion.

12:30 p.m. – 1:00 p.m.
Registration

1:00 p.m. – 1:10 p.m.
Welcome and Introduction

1:10 p.m. – 2:10 p.m.
Risk Assessment, Transfer & Insurance: D&O Responsibility and Business Income Loss
RESPONSIBILITY: Who is responsible? Responsibility originates from: (1) Regulatory requirements; (2) common law duties (case law discussion); (3) Industry standards and norms.
PROCESS TO ID AND HANDLE RISKS: (1) Identify risks (financial, reputational, market share, others); (2) Rank them based on various factors; (3) Decide what to do with critical risks: (transfer, retain, hybrid solution).
RISK TRANSFER OPTIONS (3 OF THEM): (1) Transfer: (a) via insurance: D&O to protect decision makers; liability to protect against litigation & claims; property to protect capital investment in buildings & machinery; BI & CBI to protect revenue and expense outlay; (b) via indemnity agreements; (2) Retain the Risk: (a) Backup locations; (b) capital infusion; (3) Hybrid: (a) SIR; (b) split responsibility.
FIVE INSURANCE ISSUES TO WATCH FOR: (1) D&O limits and defense costs; (2) D&O who’s insured; (3) property policies and pitfalls; (4) CGL liability limits and coverage; (5) proper claim handling process and management.
BUSINESS INCOME LOSS: issues involved in preparing business income loss claims, the variable means in which these claims can be calculated, the ways in which such claims can be effectively challenged, and the coverage issues and arguments that may arise in regards thereto.
Instructors: Katherine Smith Dedrick, Serge J. Adam, Jennifer Pack, Julie A. Bean

2:10 p.m. – 2:20 p.m.
Coffee Break
2:20 p.m. – 3:20 p.m.  
Disasters: The Increasing D&O Risks and Concerns, and the Risks Presented to Insurance Agents, Brokers, Risk Managers and Insurance Consultants

BUSINESS INTERRUPTION & PROPERTY DAMAGE: The interruption of business income, the incursion of extra expense, loss of customers, loss of market share, destruction or damage to building & machinery & personal property. LITIGATION: Potential liability for damage to others (BI/PD), shareholder litigation.  
REPUTATIONAL DAMAGE: Decrease in shareholder value, loss of market share. RISK AND OPPORTUNITY: E&O CLAIMS: Pursuit of E&O claims by underinsured victims of disasters against their insurance brokers based on negligent failure to procure requested coverage or failure to properly advise with regard to the coverages/limits. Landscape of the law with regard to insurance agent/broker E&O, the factors that go into determining when a duty to advise may arise, how to prosecute and defend against these claims, and what the future holds in terms of this type of risk going forward. 
Instructors: Peter J. Biging, Joanna Rotgers, Kiera O’Connell Goral, Lisa Doherty

3:20 p.m. – 3:30 p.m.  
Coffee Break

3:30 p.m. – 4:30 p.m.  
ADR Solution For Disasters

TYPICAL COSTS AFTER DISASTER IF NO ADR: increase attorney and expert expense, company talent is used to handle litigation, reputational damage due to lingering claims, increasing costs of damage and penalties as costs of repair and replacement typically increase after a disaster, increased capital outlay. BEST PRACTICE IS TO HAVE AN ADR PROCESS IN PLACE: Have an ADR process in place to roll out. Process Includes: (1) a short list of mediators/arbitrators your company is willing to employ should disaster occur; (2) have an agreement ready for claimants; (3) have experts lined up if needed; (4) have lawyers ready to roll out process, etc. 
Instructors: Fredric M. Brooks, Kim Hogrefe, Hon. James S. Miller, Mark J. Bunim

4:30 p.m. – 5:30 p.m.  
Wine / Cheese Reception

MCLE INFORMATION

The ABA will seek 3.00 CLE credit hours in 60-minute-hour states, and 3.60 credit hours of CLE credit for this program in 50-minute states. Credit hours are estimated and are subject to each state’s approval and credit rounding rules. Visit: www.americanbar.org/mcle for general information on CLE at the ABA.

Questions regarding group discounts, cancellation policy and scholarships and for more MCLE Details please visit: www.ambar.org/mnd2019
Event Sponsors

Dispute Resolution: Jim Reiman, Chair
Professional Liability Insurance: Peter Biging, Chair

TIPS Sponsoring Committees

Organizing Committee

Ettie Ward
Deborah Greenspan
Peter Biging
Jim Reiman
Katherine Smith Dedrick
Perry Granof

St. John’s University, New York, NY
Blank Rome LLP, Washington DC
Goldberg Segalla, New York, NY
Reiman ADR, Chicago, IL
KSD Law P.C., Burr Ridge, Illinois
Granof International Group LLC, Chicago, IL
Katherine Smith Dedrick
Owner, KSD Law PC and KSD Global Consulting Inc.
1333 Burr Ridge Parkway, Suite 200
Burr Ridge, Illinois  60527
Email:  Katherine@ksdcounsel.com

Ms. Smith Dedrick has more than 30 years of commercial experience as corporate counsel, a commercial litigator and the co-founder of a domestic and international consulting company. Because of her hands-on experience in both the legal and business worlds, she has a unique perspective as she has a deep understanding of legal issues and a solid appreciation of their potential business impact. As a litigator, she’s handled hundreds of complex commercial matters which include arguing seminal issues before the Illinois Supreme Court and appearing as lead trial counsel before state and federal courts, arbitration panels and mediators across the country. Katherine’s litigation experience also includes the ramifications from disasters (hurricanes, earthquakes, explosions, fires), class actions, discrimination, personal injury (mold, medical malpractice, sick building, Legionnaires’ disease), HIPAA and environmental remediation. As corporate counsel, she’s advised on matters including business transactions, contracts, employment matters, governance, insurance and risk management.

Katherine has broad experience in the insurance industry as she’s represented insurers, policyholders, reinsurers and cedents. Her experience is across all lines including liability, property, business interruption, cyber, environmental (remediation, hazardous waste, asbestos), professional services, D&O, errors & omissions and excess. She has been involved in the resolution of some of the largest disasters in the US (hurricanes Wilma and Katrina), and other countries including New Zealand earth quakes and Australian cyclones. She’s also an expert witness on complex insurance matters, including bad faith and claim handling practices.

Katherine has significant arbitration and mediation experience as a party representative (more than 100 matters), a neutral, and a consultant in foreign jurisdictions. As a neutral she’s been an arbitration panel member regarding complex commercial financial disputes, and she’s mediated numerous commercial and contract-based cases to resolution. Katherine is a commercial neutral with the American Arbitration Association, an arbitrator with FINRA, a Fellow of the Certified Institute of Arbitrators headquartered in London (domestic and international arbitration), a neutral with the International Institute of Conflict Prevention and Resolution and a member of the Association of Attorney-Mediators.
Serge J. Adam
Complex Claims Analyst
Allianz Global Corporate & Specialty
serge.adam@agcs.allianz.com

Serge Adam is a Complex Claim Analyst with Allianz Global Corporate & Specialty. During the span of a nearly 20 year career, he has held roles as VP of claims with a leading middle market brokerage firm, AVP of claims with a leading specialty insurance carrier, and partner in a boutique law firm where he provided coverage consultation to carriers and successfully litigated matters in federal, state and administrative tribunals.

His insurance knowledge and experience include coverage and claims arising under public, private and non-profit directors and officer’s liability policy forms and coverage and claims arising under financial institution errors & omissions and management liability forms. He has authored and co-authored a number of articles on insurance coverage issues and has been a guest speaker at several professional association events, including the PLUS International Conference, the American Bar Association (ABA) Litigation Seminar, and the Federation of Defense and Corporate Counsel.

Serge Adam completed his undergraduate degree at Northwestern University, Evanston, Illinois and obtained his J.D. from the University of Illinois College of Law.
Jennifer Pack
Director of Risk Management
Hyatt Hotels Corp.
jennifer.pack@hyatt.com

Jennifer Pack is the Director for Risk Management at Hyatt Hotels Corporation. With approximately 750 hotels and resorts in 56 countries, Hyatt strives to be the preferred choice for its guests, associates and owners. Jennifer has responsibilities for placing Hyatt’s global insurance program, global insurance compliance, workers compensation analysis, risk and insurance technology global solutions, first party claims preparation & management, cyber risk crisis management coordination, insurance & captive accounting/billing, and new insurance product initiatives, including utilization of Hyatt’s captive insurance company. The Risk Management team includes 11 individuals in Chicago with another 10 spread across the U.S, with another 60+ individuals supporting the team worldwide, reporting to the Treasurer via the VP of Risk Management. Jennifer has been with Hyatt for 11 years and in addition to having a role in the Risk Management Department, she has held two additional roles: Compliance and Controls Manager (Sarbanes Oxley Compliance), and Senior Manager Internal Audit (Hotel and Corporate Audits.) Prior to joining Hyatt in 2007, Jennifer was an external auditor with PricewaterhouseCoopers for 6 years. She primarily audited public insurance companies. Jennifer graduated from University of Wisconsin –Madison in 2000 with majors in Accounting, Human Resources and Management. She is a Certified Public Accountant (inactive) and has obtained her Associates in Risk Management (ARM). Married with 1 child, she works and resides in Chicago.
Julie A. Bean
Director, Risk Management
Chamberlain Group
300 Windsor Drive
Oak Brook, IL  60532
julie.bean@chamberlain.com

Julie is currently the Director, Risk Management for Chamberlain Group, a wholly owned subsidiary of The Duchossois Group, a privately held, family-owned company with holdings in the consumer products and technology sectors. Located in Oak Brook, IL, Julie has direct responsibility for all risk management functions across all the Duchossois operating companies, which employ over 5,000 people worldwide with facilities located in North America, Europe and Asia. In addition, Julie is responsible for the company’s Business Continuity Program as well as oversight of Environmental Health and Safety for the organization.

Prior to joining Duchossois, Julie held the position of Manager, Risk Financing with The ServiceMaster Company.

Julie received her undergraduate in Marketing and English from North Central College in Naperville, IL and holds both the Associate in Risk Management professional designation as well as the Certified Risk Manager certification.

Julie has been actively involved in the local Chicago RIMS chapter throughout her career, most recently serving as the chapter President. She also is the Chair of the RIMS Member and Chapter Engagement Committee.
Peter J. Biging
Goldberg Segalla LLP
711 Third Avenue, 19th Fl.
New York, NY 10017
pbiging@goldbergsegalla.com

Peter J. Biging is a partner in the Goldberg Segalla LLP Manhattan office, where he heads up the firm’s New York metro area management and professional liability defense practice, and serves as Vice Chair of the firm’s nationwide Management and Professional Liability practice group. He is an accomplished trial and appellate attorney, with more than 30 years of experience as a litigator in the state and federal courts of New York, focusing his practice on defense of professional liability errors and omissions claims. For the past 22 years, he has devoted a substantial percentage of his practice to defense of insurance agents and brokers from errors and omissions claims, in connection with placements in virtually every line of business.

A nationally recognized leader in the field of professional liability litigation, Peter is the current Chair of the American Bar Association TIPS Professional Liability Insurance Committee, and immediate past Chair of the Professional Liability Defense Federation’s Insurance Agent/Broker Claims Committee. He also serves as a member of the Insurance Professionals (Agents & Brokers) Committee for CLM. In 2018, he was once again recognized as a New York Metro area Super Lawyer.
**Joanna Rotgers**
Senior Assistant General Counsel  
Marsh & McLennan Companies, Inc.  
1166 Avenue of the Americas  
New York, New York 10036  
Joanna.Rotgers@mmc.com

Joanna Rotgers is Senior Assistant General Counsel serving the Marsh operating company of Marsh & McLennan Companies, Inc. Joanna works in MMC’s New York headquarters handling the company’s large and complex litigation docket, with a focus on defending against professional liability/errors and omissions claims in the US, Canada and other geographies globally. Joanna has more than 15 years of experience -- including in private practice -- in defending insurance agents and brokers from errors and omissions claims, in connection with placements in virtually every line of insurance business. Joanna has also developed and led professional liability training initiatives for thousands of business colleagues.

---

**Kiera O’Connell Goral**
Assistant Vice President, Specialty Claims, QBE North America  
2400 Dallas Pkwy Suite 350  
Plano, TX, 75093-4380  
Kiera.goral@us.qbe.com

Kiera Goral joined QBE in 2015 and currently serves as Assistant Vice President for Professional Liability Claims. Kiera is responsible for claims oversight and manages a team of claims attorneys for QBE’s Specialty Program business. In addition to servicing existing programs included in the current portfolio of the Specialty Business Group, Kiera assists with the development of new program opportunities. A licensed attorney in Florida and Texas, Kiera practiced in both states before making the switch to the insurance industry.
Lisa Doherty
Founder and CEO
Business Risk Partners (BRP)
ladoherty@businessriskpartners.com

For over a decade, Lisa Doherty, Founder and CEO of Business Risk Partners (BRP), has assembled a group of talented, motivated, and experienced individuals to create a successful specialty insurance underwriting firm.

In 2000, Lisa and her sister, Linda Boborodea, launched BRP, a national program administrator providing specialty insurance coverage to businesses. BRP underwrites on behalf of several major carriers, providing specialty insurance products including E&O, D&O, EPLI, Cyber and fidelity coverages. Since its inception, Lisa has led BRP in the development of an extensive, distribution network, including national endorsements within industry associations. Lisa’s commitment to technology has allowed BRP to develop a national portfolio of small/middle market commercial insurance buyers by providing excellent service and real-time information for decision-making.

Lisa began her insurance career as a Specialty Insurance Underwriter with AIG in New York City, then spent several years as a D&O Underwriter at Executive Risk and moved west to run the Pacific Northwest FINPRO practice of Marsh. She returned to the east coast to develop Executive Risk’s international operations. She left Executive Risk, to start BRP.

Lisa has a BA from Brown University with a dual concentration in International Relations and Economics. She and her partner live in Longmeadow, MA and have 2 young sons. Lisa loves to talk insurance and wine. Whenever you talk with her, be prepared to discuss these topics.
MARK J. BUNIM is an advanced trained Mediator and Arbitrator and an attorney licensed to practice in the 
Courts of New York and the United States Courts, since 1976. Mr. Bunim has conducted over 400 mediations 
and numerous arbitrations concerning insurance policy related and coverage issues, complex business disputes 
and partnership disputes. Mr. Bunim’s arbitrations and mediations have principally involved all insurance policy 
types including general liability, property, construction, employment practices, supply-chain, business 
interruption, directors and officers, rep. and warranty, professional liability, life, disability and Workers Comp. 
He has also arbitrated and mediated many insurance industry related business disputes between insurers and: 
MGAs; brokers and agents.

Mr. Bunim has been selected as “2013 Top Rated Lawyer in Insurance Law” by the American Lawyer/ New 
York Law Journal. Mr. Bunim has also been selected as a member of the National Academy of Distinguished 
Neutrals (NADN) and as a Charter Member of the New York Academy of Mediators and Arbitrators.

Mr. Bunim is on the Panel of Large and Complex Case Arbitrators at the American Arbitration Association; the 
Panel of Insurance Mediators of the American Arbitration Association; the Panel of Commercial Mediators and 
the Panel of Arbitrators at CPR and its policy-holder/ insurer specialty panel; the Panel of Commercial 
Arbitrators and Mediators of FedArb.; the panel of the National Association of Distinguished Neutrals; and is 
Chairman of Case Closure Arbitrators and Mediators. He is on the Executive Board of the New York State Bar 
Assn. Dispute Resolution Section and is Chairman of the Legislation Committee and is also on the Arbitration 
and the Mediation Committees. He is also a member of the Arbitration Committee of the New York City Bar 
Association.

From 1996 to 2005 he had been a partner in Robinson Silverman Pearce Aronsohn & Berman, which became 
Bryan Cave, LLP (in 2003) focusing on commercial litigation, insurance related and coverage cases, and 
alternative dispute resolution. While at the firm, he was co-leader of the insurance litigation and risk 
management group, and head of the New York insurance coverage litigation team. Before that, from 1983-1996, 
he was managing partner at Ohrenstein and Brown, a 45 person New York City law firm specializing in 
insurance coverage, complex tort and commercial related disputes.

Mr. Bunim graduated from New York University, summa cum laude, in 1971 and Rutgers University School of 
Law (1975). He has spoken at meetings, conventions, and seminars around the country on ADR and insurance 
issues and has appeared on radio, television and in the press, talking about risk management and insurance 
coverage and recovery. He has authored articles on Insurance and Business Mediation and Arbitration in many 
publications, including the New York Law Journal, the AAA Dispute Resolution Journal and Litigation 
Management Magazine and is an insurance arbitration columnist contributor for Practical Law.

Fredric (Rick) Brooks  
Of Counsel  
Blank Rome LLP  
New York, NY 10174  
rbrooks@blankrome.com

Rick represents clients in the evaluation, litigation, and resolution of complex disputes and in the negotiation, design, and implementation of large settlements. He focuses his practice on products liability, mass tort bankruptcies, and class actions.

Rick provides counsel to clients on strategic options for resolution of liabilities and mass claims, including the evaluation and resolution of pending and future claim exposure.

Rick also serves as a neutral in the settlement and resolution of complex disputes and has designed and administered numerous large claims processes. He previously served as a deputy to the Special Master of the September 11th Victim Compensation Fund of 2001.
Kim D. Hogrefe has formed a LLC to pursue opportunities as a mediator, arbitrator and consultant. His focus as a mediator is on insurance and reinsurance coverage disputes and high value civil cases worldwide. He is certified as a mediator by the Straus Institute of Dispute Resolution/Pepperdine School of Law and has mediated over 80 cases for a volunteer Court program in the New Jersey. Mr. Hogrefe is certified by ARIAS-U.S. as a reinsurance arbitrator (www.arias-us.org).

He recently completed a term as Chair of the Board of Trustees of the National Judicial College, which provides educational programs and training for U.S. Judges (www.judges.org). He currently serves on the Board’s Executive, Nominations and Governance, and Investment Committees.

He was a Senior Vice President of Chubb & Son and had responsibility for the dispute resolution process and management of claims under insurance and reinsurance policies in lines of business including Cyberliability, Directors and Officers (D&O), Errors and Omissions, Fidelity and Surety, Fiduciary Liability, Financial Lines and Employment Practices Liability.

He previously served as a trial attorney, supervisor and administrator in the Manhattan District Attorney’s Office. He investigated and prosecuted homicide and serious felony cases (including the murder of John Lennon) and tried over thirty cases to juries.

He is an active member of the American Bar Association and ARIAS-U.S. He was elected as a member of the governing Council and Financial Officer of the ABA Tort Trial and Insurance Practice Section (TIPS). A recipient of the TIPS Andrew Hecker Award, he currently serves on its Cybersecurity and Data Privacy Committee. He recently completed a term on the Council of the ABA’s Judicial Division. He serves on the Arbitrators’ Committee of ARIAS-U.S. and Chairs its sub-committee which is exploring the expansion of ARIAS-U.S. to the resolution of direct insurance disputes. Mr. Hogrefe is a frequent speaker on the topics of cyberliability risks, mediation and arbitration strategies and D&O liability claim resolution strategies.
Judge Jim Miller is a Fellow of the Chartered Institute of Arbitrators and a former trial judge. He has arbitrated more than one hundred claims and has mediated thousands more. Judge Miller has experience arbitrating and mediating construction, business and commercial, employment, injury, real estate and professional negligence cases. He is available to serve domestically and internationally as an arbitrator, mediator, insurance claim umpire, special master, receiver, early neutral evaluator and appointed or private judge.

Judge Miller presided over one of Colorado's busiest trial courts for nearly twelve years, where he was praised by attorneys, litigants and jurors for his sense of fairness, his preparation, and his ability to understand and communicate complex factual and legal concepts clearly. He brings those same skills to his arbitration and mediation practice. Judge Miller's undergraduate and graduate background in the sciences make him especially capable of quickly grasping technical, scientific and medical evidence.