



# Insurance Coverage and Practice Symposium

insurance



How to collect documents and information effectively without collecting sanctions

Navigating covered and uncovered damages issues without capsizing coverage defenses

Practical tips for protecting and preserving privileges in coverage and claim litigation

Best strategies for accessing federal court jurisdiction

Avoiding ethical missteps when the insured is either too eager to settle or refuses to settle

December 7-8, 2017

Sheraton New York

Times Square

New York, NY

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**D**RI's Insurance Coverage and Practice Symposium is the foremost educational event for insurance executives, claims professionals, and outside counsel who specialize in insurance coverage. This year's symposium will once again offer an unparalleled opportunity to engage with a distinguished faculty of insurance industry leaders, experts, and coverage lawyers on emerging issues, recent court rulings, national trends, and the future of insurance coverage law. In addition, the symposium provides exceptional networking events, as well as an opportunity to experience the wonder of New York City during the holiday season!



**Laura A. Foggan**  
Program Chair



**Matthew S. Foy**  
Committee Chair



**Brian H. Sande**  
Program Co-Vice Chair



**F. Lane Finch, Jr.**  
Committee Vice Chair



**Kelly M. Lippincott**  
Program Co-Vice Chair



**Lee Craig**  
Law Institute

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## What You Will Learn

- Industry leaders' perspectives on how to handle problem jurisdictions and regulatory intrusions into claims
- An examination of problematic jurisdictions and their effects
- Insurance coverage for multiple occurrences
- Third-party payers
- The ethics and strategy of defending an uncooperative insured



## Get Started

- 1 Review the brochure and identify sessions of interest to you
- 2 Share this brochure with colleagues
- 3 **Register online** or complete the **form in the back**
- 4 Download the DRI App  and  and make use of its features to get the most out of this program
- 5 Share on social media   

## Maximize Your DRI Seminar Experience

*No one gets you connected like DRI.*

- Use the DRI App to customize your schedule, view course materials, and communicate with fellow attendees and speakers.
- Access the **DRI Insurance Law Committee Community** to network with individual members. Share articles, post blogs, and connect with others on the latest trends in your area of practice.
- Discover the  **DRI Client Connection**—meet in-house and claims professional registrants and speakers.

## PROGRAM SCHEDULE

### WEDNESDAY, DECEMBER 6

5:30 p.m. **Women's Networking Reception**

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6:00 p.m. **Registration**

6:00 p.m. **Networking Reception**

SPONSORED BY **Saul Ewing LLP**

### THURSDAY, DECEMBER 7

7:00 a.m. **Registration**

7:00 a.m. **Continental Breakfast**

SPONSORED BY **Jeff Kichaven Commercial  
Mediation**

**McAngus Goudelock & Courie LLC**

7:00 a.m. **First-Time Attendees Breakfast**

**Matthew S. Foy**, *Gordon & Rees Scully  
Mansukhani LLP*, San Francisco, CA

8:00 a.m. **Welcome and Introduction**

**Lee Craig**, *Butler Weihmuller Katz Craig LLP*,  
Tampa, FL

**Laura A. Foggan**, *Crowell & Moring LLP*,  
Washington, DC

8:10 a.m. **Single or Multiple Occurrences:  
Debating Minutiae or Millions?**

While some may envision angels dancing on the head of a pin, others see the millions of dollars at stake in determinations concerning the number of occurrences in bodily injury and property damage disputes.

**Paul W. Kalish**, *Crowell & Moring LLP*,  
Washington, DC

9:00 a.m. **Et Tu, Brute? A New Look at Additional  
Insured Issues in HO, Auto, GL**

The meaning of Latin words, the placement of commas, and the definition of "insured" all can determine who is, and how many individuals or entities are, insured under widely used policy forms.

**Kathryn E. Kasper**, *Hancock Daniel Johnson &  
Nagle PC*, Richmond, VA

*Click on any speaker name to view bio.*

9:50 a.m. **Refreshment Break**

10:05 a.m. **The Evolving Roles of In-House and  
Outside Counsel to Identify Sources of  
Information, Preserve Data, and Collect  
Documents in Coverage Litigation**

Common-sense tips to help in-house and outside counsel navigate their respective roles in identifying, preserving, and collecting documents and information, thereby thwarting opponents who may seek monetary sanctions, adverse inferences, or other advantages in litigation.

MODERATOR | **Dawn Estes**, *Estes Thorne &  
Carr PLLC*, Dallas, TX

 **Kevin S. Brown**, *State Farm Insurance*,  
Bloomington, IL

 **Joseph R. Geoghegan**, *Travelers*,  
Hartford, CT

11:00 a.m. **Divvying Up Damages: Covered  
and Uncovered Loss**

New rulings have addressed how courts assess covered and uncovered damage circumstances, including reserving rights to decline coverage for uncovered damages and who bears the burden of demonstrating damages attributable to covered and uncovered harm.

**Tracy L. Eggleston**, *Cozen O'Connor*,  
Charlotte, NC

11:45 a.m. **Lunch (on your own)**

1:15 p.m. **How-to Tips: Practical Plans for Insurers  
and Their Counsel for Protecting Privilege**

You have heard about *Cedell* and the warnings from Chicken Little. Now learn practical tips for insurers and their counsel to protect and preserve insurer privileges in coverage and claim litigation.

**Sean C. Griffin**, *Dykema Gossett PLLC*,  
Washington, DC

2:00 p.m. **Federal Court Jurisdiction: Who Will  
Decide Your Next Coverage Case?**

Access to federal courts may mean more to determining your coverage case than any other factor. Is there "unflinching obligation" to exer-

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cise jurisdiction, or is dismissal or remand discretionary? This presentation will not “abstain” from difficult issues; it will explore conflicting circuit court tests determining whether you stay, and address ways that litigants seek to deprive insurers of Article III rights.

 **Brian H. Sande**, *Federated Mutual Insurance Co.*, Owatonna, MN

**Charles E. Spevacek**, *Meagher & Geer PLLP*, Minneapolis, MN

3:00 p.m. **Refreshment Break**

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3:15 p.m. **Hot Issues Under Claims-Made-and-Reported Forms**

The meaning of claims, professional services, and negligent act, error, or omission all are hot issues, with new case law emerging monthly. Learn about the latest rulings and the biggest unresolved issues under claims-made-and-reported coverage.

**Michael J. Cawley**, *Gordon & Rees Scully Mansukhani LLP*, Philadelphia, PA

4:10 p.m. **Are Technology and Privacy on a Collision Course?**

Novel claims are being asserted and case law is developing on a number of important coverage issues for technology and privacy intrusions under a variety of policy forms. Hear predictions on the next set of issues to be litigated.

**David R. Mackenzie**, *Blaney McMurtry LLP*, Toronto, ON

5:00 p.m. **Insurance Law Committee Business Meeting**  
(open to all)

6:00 p.m. **Networking Reception**

SPONSORED BY **Nicolaides Fink Thorpe Michaelides Sullivan LLP**  
**Traub Lieberman Straus & Shrewsbury LLP**

7:30 p.m. **Dine-Arounds** | Join colleagues and friends at selected restaurants for dinner (*on your own*). More details on-site.

FRIDAY, DECEMBER 8

7:00 a.m. **Registration**

7:00 a.m. **Continental Breakfast**

SPONSORED BY **Gaglione Dolan & Kaplan Dykema Gossett PLLC**

8:00 a.m. **Welcome and Introduction**

**Laura A. Foggan**, *Crowell & Moring LLP*, Washington, DC

**Kelly M. Lippincott**, *Carr Maloney PC*, Washington, DC

8:05 a.m. **Hot Topics in Problem Jurisdictions**

Learn about the latest first- and third-party challenges for insurers in Florida and New York, including partial disclaimers, “assignment of benefits,” additional insured obligations, and extra-contractual claims. Could developments in these states soon find their way into your jurisdiction?

**Matthew J. Lavisky**, *Butler Weihmuller Katz Craig LLP*, Tampa, FL

**Dan D. Kohane**, *Hurwitz & Fine PC*, Buffalo, NY

9:00 a.m. **Ethical Considerations of Defending the Uncooperative Insured**

**Part 1: The Insured Is Too Eager to Settle**

Learn how to avoid ethical missteps when the insured is too eager to settle, and how to protect the insurer from coercive consent judgments.

**Kelly Link Stoltz**, *Nicolaides Fink Thorpe Michaelides Sullivan LLP*, Chicago, IL

**Part 2: The Insured Doesn’t Want to Settle**

What are the insurer’s rights—and what must defense counsel do—when the insurer wants to settle but its policyholder does not?

**Michael F. Aylward**, *Morrison Mahoney LLP*, Boston, MA

10:00 a.m. **Regulatory Intrusion into Claims Handling**

A first-hand account of regulatory “intrusion” will illustrate why regulation is needed, how the regulatory process works, and the challenges encountered in achieving more uniformity in regulatory standards.

**James J. Wrynn**, *FTI Consulting*, New York, NY

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10:45 a.m. **Refreshment Break**11:00 a.m. **Product Recall: Pharmaceuticals and Food**

This presentation will provide an overview of key features of product recall insurance as a specialty insurance product and address coverage for food and pharmaceutical recalls under standard CGL policies. Trends and recent cases will be discussed.

 **Oona M. Cremata**, *Berkley Global Product Recall Management*, Los Angeles, CA

**Caitlin Piccarello Strauss**, *Saul Ewing LLP*, Philadelphia, PA

 **Sonia M. Valdes**, *Medmarc Insurance Group*, Chantilly, VA

11:45 a.m. **Business Interruption Developments: Protests, Power Outages, Ransomware, and More**

Learn how technology has affected claims for loss of business income and extra expense, and how courts are taking a “fresh look” in construing business interruption coverage.

**Rick L. Hammond**, *HeplerBroom LLC*, Chicago, IL

12:25 p.m. **Contrasting Mediation Perspectives: Claims Executives and Mediators**

Two former senior insurance claims executives now working as mediators will speak candidly about the role of mediation in settling complex claims, including coverage disputes and bad-faith cases, and how their views of the process changed.

**Andrew S. Nadolna**, *JAMS*, New York, NY

**Rachel K. Ehrlich**, *Judicate West*, San Francisco, CA

12:50 p.m. **Third-Party Payers: Litigation Funding, Loss Portfolio Transfers, and Attorney’s Fee Recovery**

This session will review fee-shifting and other third-party payment of litigation costs, including insights about their effect on tort and coverage litigation.

**Daniel W. Gerber**, *Goldberg Segalla LLP*, Buffalo, NY

1:30 p.m. **Adjourn**

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### Community Service Project

Since 1989, **Grand Central Neighborhood** (GCN) has been providing services to the homeless of New York City. GCN offers an array of programs to help individuals regain their self-esteem and find permanent housing. The organization and its clients are dependent on basics that we take for granted, such as clean clothes, a shower, and a hot meal. Offering basic necessities and a range of social services, including housing assistance, mental health counseling, employment counseling, and treatment referrals, GCN recognizes that, for some, simply coming in from the streets is a significant step. This year, our committee’s community service goal is to help those people who are usually excluded from other service agencies, but who need aid most. At the symposium, you can make non-monetary donations, including toiletries and clothing, or feel free to make a monetary donation to aid those in need.

## GENERAL INFORMATION

### In-House Counsel

In-house counsel are eligible for free registration to DRI seminars. In-house counsel are defined as licensed attorneys, who are employed exclusively by a corporation or other private sector organization for the purpose of providing legal representation and counsel only to that corporation, its affiliates and subsidiaries. In order to qualify for free registration, the individual must also be a DRI member and a member of DRI's Corporate Counsel Committee. Offer excludes the DRI Annual Meeting.

### Claims Executives

Any member of DRI employed as a claims professional by a corporation or insurance company, who spends a substantial portion of his or her professional time hiring or supervising outside counsel in the representation of business, insurance companies or their insureds, associations or governmental entities in civil litigation, will be entitled to free attendance at any DRI program. **Limited to one seminar per calendar year.** Offer excludes DRI Annual Meeting.

### CLE/Claims Adjusters Accreditation

This seminar has been approved for MLE credit by the State Bar of California for up to **12** hours, including **1** hour of ethics credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. **Application has been made for continuing education for claims adjusters.** Credit availability and requirements vary from state to state; **please check the DRI website at [dri.org](http://dri.org)** for the latest information for your state.

### Registration Policy

**Save \$100 when you register by November 6, 2017.** (See the registration form for pricing.) The registration fee includes course materials, continental breakfasts, refreshment breaks, networking receptions, and access to the DRI App. If you wish to have your name appear on the registration list distributed at the conference and receive the course materials in advance, DRI must receive your registration by

**November 13, 2017** (please allow 10 days for processing). Registrations received after **November 13, 2017**, will be processed on-site.

### Refund Policy

The registration fee is fully refundable for cancellations received on or before **November 13, 2017**. Cancellations received after **November 13** and on or before **November 20, 2017**, will receive a refund, less a \$100 processing fee. Cancellations made after **November 20** will not receive a refund, but a \$100 certificate good for any DRI seminar within the next 12 months will be issued. All cancellations and requests for refunds must be made in writing. Fax (312.795.0747) or email ([seminars@dri.org](mailto:seminars@dri.org)) to DRI's Accounting Department. Processing of refunds will occur within four weeks after the date of the seminar. All refunds will be processed in the same method that the payment was received. Substitutions may be made at any time without charge and must be submitted in writing.

### Discounts

**Group Discount** The first and second registrations from the same firm or company are subject to the fees outlined previously. The registration fee for additional registrants from the same firm or company is **\$775**, regardless of membership status if received on or before **November 6, 2017**. After **November 6**, the group rate is **\$875**. All registrations must be received at the same time to receive the discount.

**Travel Discounts** DRI offers discounted meeting fares on various major air carriers for **DRI Insurance Coverage and Practice Symposium** attendees. To receive these discounts, please contact Direct Travel, DRI's official travel provider, at 800.840.0908. As always, to obtain the lowest available fares, early booking is recommended.

### DRI Financial Aid Policy

Individuals who demonstrate need may receive limited financial aid to attend DRI CLE programs under the following terms and conditions:

- Applicants must be licensed to practice law in the United States, Canada or other foreign jurisdiction. Proof of admission to the bar, including applicant's bar or Supreme Court number, must accompany the request.
- Applicants must show proof of identity and citizenship.
- Applicants must execute and deliver the approved DRI application for financial aid to the DRI Education Department, 55 W. Monroe, Suite 2000, Chicago, IL 60603 at least sixty (60) days in advance of the first day of the seminar.

- The taping or recording of DRI seminars is prohibited without the written permission of DRI.
- Speakers and times may be subject to last-minute changes.
- A small portion of your room rate offsets the costs of the seminar.
- DRI policy provides there will be no group functions sponsored by others in connection with its seminars.

## Hotel Accommodations

A limited number of discounted hotel rooms have been made available at **Sheraton New York Times Square, 811 7th Avenue, 53rd Street, New York, NY 10019** ([click here](#) to view hotel photos).

Take advantage of the group rate of **\$399 Single/Double** in one of two ways:

- 1) Reserve online: [Click here](#) or visit [dri.org](http://dri.org) and go to the **DRI Insurance Coverage and Practice Symposium page** and click on the "Book hotel" button.
- 2) Or **contact the hotel directly at 212.581.1000** and mention the **DRI Insurance Coverage and Practice Symposium**.

The hotel block is limited and rooms and rates are available on a first-come, first-served basis. You must make reservations by **November 6, 2017**, to be eligible for the group rate. Requests for reservations made after **November 6** are subject to room and rate availability.

**FACULTY** *Click on any name to view bio.*

**Michael F. Aylward**, Morrison Mahoney LLP, Boston, MA

 **Kevin S. Brown**, State Farm Insurance, Bloomington, IL

**Michael J. Cawley**, Gordon & Rees Scully Mansukhani LLP, Philadelphia, PA

**Lee Craig**, Butler Wehmuller Katz Craig LLP, Tampa, FL

 **Oona M. Cremata**, Berkley Global Product Recall Management, Los Angeles, CA

**Tracy L. Eggleston**, Cozen O'Connor, Charlotte, NC

**Rachel K. Ehrlich**, Judicate West, San Francisco, CA

**Dawn Estes**, Estes Thorne & Carr PLLC, Dallas, TX

**F. Lane Finch, Jr.**, Swift Currie McGhee & Hiers LLP, Birmingham, AL

**Laura A. Foggan**, Crowell & Moring LLP, Washington, DC

**Matthew S. Foy**, Gordon & Rees Scully Mansukhani LLP, San Francisco, CA

 **Joseph R. Geoghegan**, Travelers, Hartford, CT

**Daniel W. Gerber**, Goldberg Segalla LLP, Buffalo, NY

**Sean C. Griffin**, Dykema Gossett PLLC, Washington, DC

**Rick L. Hammond**, HeplerBroom LLC, Chicago, IL

**Paul W. Kalish**, Crowell & Moring LLP, Washington, DC

**Kathryn E. Kasper**, Hancock Daniel Johnson & Nagle PC, Richmond, VA

**Dan D. Kohane**, Hurwitz & Fine PC, Buffalo, NY

**Matthew J. Lavisky**, Butler Wehmuller Katz Craig LLP, Tampa, FL

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**Kelly Link Stoltz**, Nicolaidis Fink Thorpe Michaelides Sullivan LLP, Chicago, IL

**Caitlin Piccarello Strauss**, Saul Ewing LLP, Philadelphia, PA

 **Sonia M. Valdes**, Medmarc Insurance Group, Chantilly, VA

**James J. Wrynn**, FTI Consulting, New York, NY

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## CLE for Your Practice

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September 7–8, 2017  
**Cybersecurity and Data Privacy**  
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September 14–15, 2017  
**Strictly Automotive**  
*Detroit Marriott Troy, Troy, MI*

December 7–8, 2017  
**Professional Liability**  
*Sheraton New York  
Times Square Hotel, New York, NY*

January 31–February 2, 2018  
**Women in the Law**  
*Nobu Eden Roc Resort, Miami, FL*

February 7–9, 2018  
**Product Liability Conference**  
*San Diego Marriott Marquis,  
San Diego, CA*

March 1–2, 2018  
**Medical Liability and Health Care Law**  
*Manchester Grand Hyatt, San Diego, CA*

March 1–2, 2018  
**Toxic Torts and Environmental Law**  
*Sheraton Nashville Hotel, Nashville, TN*

March 22–23, 2018  
**Insurance Coverage and  
Claims Institute**  
*Swissôtel Chicago, Chicago, IL*

## Publications for Your Practice

Members can access committee newsletters and seminar course materials via **DRI Online** at [dri.org](http://dri.org).

### **Newsletter *Covered Events*** (12 times a year)

Visit the **Insurance Law Committee page** on [dri.org](http://dri.org) for information about the committee and related resources.

### **Insurance Law** focus in *For The Defense*

**October 2017** (upcoming)

**May 2017**

**October 2016**

### **Defense Library Series**

*Unfair Claims Practices Compendium* (coming in 2017)

*UM/UIM Motorist Coverage Compendium*

*Duty to Defend Compendium*

*Insurance Bad Faith: A Compendium of State Law*

*Reinsurance Professional's Deskbook*



### **Diversity and Inclusion in DRI: A Statement of Principle**

DRI is the largest international membership organization of attorneys defending the interests of business and individuals in civil litigation.

Diversity is a core value at DRI. Indeed, diversity, which includes sexual orientation, is fundamental to the success of the organization, and we seek out and embrace the innumerable benefits and contributions that the perspectives, backgrounds, cultures, and life experiences a diverse membership provides.

Inclusiveness is the chief means to increase the diversity of DRI's membership and leadership positions. DRI's members and potential leaders are often also members and leaders of other defense organizations. Accordingly, DRI encourages all national, state, and local defense organizations to promote diversity and inclusion in their membership and leadership.

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December 7-8, 2017

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Please list any special needs \_\_\_\_\_

Are you a first-time attendee at this DRI seminar?  Yes  No

How many attorneys are in your firm? \_\_\_\_\_ What is your primary area of practice? \_\_\_\_\_

## REGISTRATION FEE

Registration fee includes seminar attendance, networking events, course materials, and access to the DRI App. DRI will email a link to download the course materials to all registrants two weeks in advance of the seminar.

|   | On or before<br>Nov. 6, 2017 | After<br>Nov. 6, 2017         |  |
|---|------------------------------|-------------------------------|--|
| <input type="checkbox"/> Member                   | \$875                        | \$975                         | <i>For inclusion on the<br/>preregistration list and to receive<br/>course materials in advance,<br/><b>register by November 13, 2017.</b></i> |
| <input type="checkbox"/> Nonmember                | \$1,110                      | \$1,210                       |  |
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| <input type="checkbox"/> Group Discount*          | \$775                        | \$875 (*as defined on page 5) |  |

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