



Understanding Coverage Issues, Ethical Concerns and Remote Proceedings in Response to COVID-19 and More

2021 Insurance Law Section CLE

Friday, January 29, 2021
Live Webcast

North Carolina: 6.75 MCLE Hours

Includes

1.00 Ethics/Professional Responsibility

1.00 Substance Abuse/Mental Health

1.00 Technology Training

Planned by the NCBA Insurance Law Section

The *2021 Insurance Law Section CLE* includes topics that have emerged as a result of COVID-19, as well as other topics that continue to resurface in insurance law litigation. Being mindful of the various ways in which the legal community has been impacted by the pandemic, this CLE aims to provide insight into emerging challenges while also keeping attendees apprised of other key insurance law issues.

Hear an explanation of business interruption and related claims presented by COVID-19 from both an insurer's and a policyholder's perspective, then receive guidance from our judiciary as they share the dos and don'ts for virtual proceedings. A leader in the technology industry also discusses how to utilize technology for remote proceedings and during litigation. From discovery to trial, attendees explore bad faith litigation and learn the proper analysis to determine which law applies in a case.

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FRIDAY, JANUARY 29, 2021

8:25 AM–4:45 PM

8:25 Welcome and Introductions

8:30 Top 10 Insurance Law Decisions of 2020

Davey

The always-popular “Top 10” session returns for 2021. Review the 10 or so most significant insurance law decisions from the preceding year, in North Carolina and nationwide.

9:15 Break

9:25 Bad Faith Cases: Preparation and Trial Lumpkin

Discuss the common and key issues in the preparation for and trial of an insurance bad faith case, including litigation immunity, common discovery problems like general business practice proof and other claims evidence, proving intent, industry standards and their sources, and damages, including punitive damages. While the presentation focuses on North Carolina law, significant developments in national trends are also addressed.

10:10 Break

10:20 Insurance Claims Arising from Losses Related to COVID-19

Bowers and Worf

COVID-19 interrupted a lot of businesses: restaurants, theater, fitness centers, sports arenas, hair and nail salons, spas, and more. The list is long and varied. The financial losses to business — big, small and in between — promises to be a hot topic for years to come. The proverbial \$64,000 question is: “Is there insurance coverage for that?” Hear a discussion from both the insurer’s perspective (Bowers) and the policyholder/insured’s perspective (Worf).

11:05 Break

11:15 Choice of Law Issues in Insurance Cases

DeGeorge

Choice of law can be outcome-determinative in many coverage actions because states resolve coverage actions based on widely differing rules. Examples

include trigger of coverage, extra-contractual recovery, bad faith elements, late notice requirement for insurer prejudice, and “all sums” coverage for long-tail claims. Because most insurers cover interests in all 50 states, attorneys contemplating litigation typically have venue options, with choice of law governed by the forum state. This session discusses strategies to take advantage of these options, including consideration of N.C.G.S. § 58-3-1, which effectively requires application of North Carolina law to policies covering “property, lives, or interests” in North Carolina.

12:00 Lunch Break

12:30 Remote/Virtual Proceeding from the Judge’s Perspective: Advice, Suggestions and Observations

Judge Dietz and Judge Ridgeway

Moderator: Boyles

Courts are now conducting hearings and arguments remotely, via Zoom and other internet video services, at both the trial and appellate levels. In this segment, two highly respected judges — one from the trial court (Judge Ridgeway) and one from the court of appeals (Judge Dietz) — share their advice, suggestions and observations to help practitioners with these new developments.

1:15 Break

1:25 Remote/Virtual Proceedings: Technical Aspects, Tips and Best Practices[‡]

Roberts and Towey

In July 2020, the NC Legislature extended the deadline on remote oaths to be effective until March 1, 2021. Although remote depositions and remote mediations are not a new frontier, for many, they present a new way of practicing law. During this session, attendees learn how to take proceedings from the physical, in-person world to the virtual world. Explore best practices and key considerations for your virtual proceedings, including demonstrations in remote and exhibit-sharing tools, discussions on how to keep your remote proceedings secure, and more.

2:25 Break

2:35 Ethics in the Coronavirus Age: The More Things Change, the More They Remain the Same*

Scruggs

As of the date of this program, we will be nearly one year past the onset of the coronavirus. Our practices have changed dramatically — working from home, Zoom meetings and hearings, remote depositions, and more — but the ethical requirements remain constant. Mark Scruggs of Lawyers Mutual provides a timely update.

3:35 Break

3:45 Psychology of Transitions†

Moraites

Transition appears in myriad forms throughout our lives and careers: getting married, getting divorced, having children, children leaving for college, moving to a new town, leaving a law firm, changing practice areas, retiring ... the list goes on. Add to that, many of us spend our days counseling and advising clients who face major change arising from insurance coverage disputes, starting a new business, selling a business, business breakups, personal injuries and the like. This session examines the unspoken “elephants in the living room” that directly impact and influence our ability (or seeming inability) to welcome or embrace transition and change. Transition is never easy, but with increased awareness of the invisible forces within us that fight transition, it need not be so difficult.

4:45 Adjourn

* Indicates portion providing Ethics/Professional Responsibility credit

† Indicates portion providing Substance Abuse/Mental Health credit

‡ Indicates portion providing Technology Training credit

Speakers

- Judge Richard D. Dietz, North Carolina Court of Appeals, Raleigh
- Judge Paul C. Ridgeway, North Carolina Superior Court, Raleigh
- Deborah J. Bowers, Pinto Coates Kyre & Bowers PLLC, Greensboro
- Joshua D. Davey, Troutman Pepper Hamilton Sanders LLP, Charlotte
- R. Steven DeGeorge, Robinson Bradshaw & Hinson PA, Charlotte
- R. Hugh Lumpkin, Reid Smith LLP, Miami, FL
- Robynn E. Moraites, North Carolina Lawyer Assistance Program, Charlotte
- David C. Roberts, Veritext Legal Solutions, Charleston, SC
- Mark A. Scruggs, Lawyers Mutual Liability Insurance Company of North Carolina, Cary
- Tom Towey, Veritext Legal Solutions, Atlanta, GA
- Richard C. Worf, Robinson Bradshaw & Hinson PA, Charlotte

Moderator

- Susan H. Boyles, Kilpatrick Townsend & Stockton LLP, Winston-Salem

Planners

- Lenneka H. “Nikki” Feliciano, Pinto Coates Kyre & Bowers PLLC, Greensboro
- Daniel J. Knight, Parker Poe Adams & Bernstein LLP, Raleigh
- Alan M. Ruley, Bell Davis & Pitt PA, Winston-Salem