

Women in Insurance Network Virtual Regional CLE Program

*Presented by the Section of Litigation
Insurance Coverage Litigation Committee*

November 5
2020



The ABA will seek **6.0** CLE credit hours, including **1.0** hour of Ethics CLE credit, in 60-minute states, and **7.2** CLE credit hours, including **1.2** hours of Ethics CLE credit, in 50-minute states. Credit hours are estimated and are subject to each state's approval and credit rounding rules.

Program Agenda

Women in Insurance Network Virtual Regional CLE Program

THURSDAY, November 5, 2020

9:45 AM – 10:45 AM ET

Zoom Trials and Mediations: Tips, Tricks, and Ethical Pitfalls

During the pandemic, both Amy M. Stewart and Winter N. Wheeler have implemented the use of virtual technology for legal proceedings. The technology to hold virtual jury trials exists, as has been proven, but it is ethical to do so when so many socioeconomically disadvantaged people may be prevented from serving on juries due to a lack of technology? Join Amy and Winter as they detail their experience and the lessons learned from Zoom trials and mediations.

Moderator: Gillian Crowl, Swift Currie McGhee & Hiers, Atlanta, GA

Speakers: Amy M. Stewart, Stewart Law Group PLLC, Dallas, TX;

Winter N. Wheeler, Miles Mediation & Arbitration LLC, Atlanta, GA

ETHICS
CLE

11:00 AM – 11:50 AM ET

ALI Restatement of Law Liability Insurance: A Look Back at Its History, Its Use in Courts Today, and a Forecast of Its Future Impact

Since its passage in 2019, the RLLI has attracted criticism for its adoption of what some characterize as aspirational or minority positions, which has resulted in legislative efforts to curtail its effect in many states. Notwithstanding opposition by a broad range of constituencies, including legislators, regulators and insurers, litigants and courts continue to cite the RLLI as persuasive authority. This program will provide a brief history of the controversy surrounding the RLLI's passage for context, an update on sections often cited by litigants and courts, and a discussion of key cases to watch that may influence the trajectory of the RLLI's impact on policyholders and insurers alike.

Moderator: Ashley Mason, Liberty Mutual Home Office Legal Coverage Counsel, Plano, TX

Speakers: Laura Foggan, Crowell & Moring LLP, Washington, DC;

Theresa Guertin, Saxe Doernberger & Vita PC, Trumbull, CT;

Kim Marrkand, Mintz Levin Cohn Ferris Glovsky and Popeo PC, Boston, MA

GENERAL
CLE

12:00 PM – 12:50 PM ET

Which Direction Are We Going? Emerging Issues in Horizontal vs. Vertical Exhaustion

California and Ohio courts recently applied vertical exhaustion, in a seeming change from prior horizontal exhaustion rules. Are these actually new rules, or does policy language continue to govern? What new arguments might insurers and policyholders make based on these rulings, and what new allocation theories might apply?

Moderator: Rina Carmel, Anderson McPharlin & Conners LLP, Los Angeles, CA

Speakers: Karin Scherner Aldama, Perkins Coie, Phoenix, AZ;

Chauntis Jenkins Floyd, Travelers Indemnity Company, Alpharetta, GA

GENERAL
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Program Agenda

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THURSDAY, November 5, 2020

1:30 PM – 2:20 PM ET

Current Coverage Challenges with Sexual Abuse Claims

Sexual abuse claims are heart-breaking and complicated. This panel will discuss the coverage issues and the implications of extended retroactive statutes of limitations on policyholders and insurers. Topics include: definition of occurrence and BI/PI, allocation, trigger, named and additional insureds, expected or intended exclusions. The panel will also provide practical tips on how to advocate for your client while still remaining sensitive to survivors.

Moderator: Sherilyn Pastor, McCarter & English, Newark, NJ

Speakers: Karen Y. Bitar, Seyfarth Shaw LLP, New York, NY;

Laura J. Hanson, Meagher + Geer, Minneapolis, MN; Elizabeth Hanke, KCIC, Washington, DC; Tiffany Williams, Pepperdine Caruso School of Law, Malibu, CA



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2:30 PM – 3:20 PM ET

Risk Retention Groups 101: Everything You Need To Know

This panel of experts will provide you with an understanding of the differences between risk retention groups and traditional insurers from a regulatory and legal perspective. Governed by the federal Liability Risk Retention Act, RRGs are exempt from many state laws (other than their domiciliary state) and have greater flexibility in making changes to their coverage agreements to meet changing conditions. RRGs also have advantages in litigation and in arbitration when disputes arise. This panel will equip you with the basics so that you are prepared the next time you encounter an RRG. The speakers for this panel include an insurance coverage attorney, a Vermont regulator, an RRG executive, and an attorney specializing in RRG formation.

Moderator: Shauna Martin Ehlert, Cozen O'Connor, Seattle, WA

Speakers: Sandy Bigglestone, Vermont Department of Captive Insurance, Montpelier, VT; Joe Carter, United Educators, Bethesda, MD; Stephanie Mapes, Paul Frank + Collins, Burlington, VT



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AMERICAN BAR ASSOCIATION

Litigation Section

Program Agenda

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THURSDAY, November 5, 2020

4:00 PM – 4:50 PM ET

Where's Waldo? Uncovering the Latest Developments in COVID-19 Coverage

In this unprecedented time of the coronavirus, a wave of coverage disputes is passing over the business world for insurance coverage. In many instances, insurers have denied coverage, and policyholders have filed lawsuits seeking business interruption coverage for business losses related to the pandemic following insurance company denials. As business owners, many policyholders have argued that they purchased coverage for loss of business for emergencies and government closures like those resulting from COVID-19 and that there was property loss or damage to trigger coverage. Insurers have argued that there is no property loss arising from COVID related business closures that would trigger coverage or coverage is precluded due to a virus exclusion or some other reason.

Moderator: Arden Levy, Arden Levy Law PLLC, Alexandria, VA

Speakers: Martin Bienstock, Bienstock PLLC, Washington, DC; Terri A. Sutton, Cozen O'Connor, Seattle, WA; Storm Wilkins, Fox School of Business, Philadelphia, PA

GENERAL
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5:00 PM – 5:50 PM ET

Advice from the Bench: Practicing in Unprecedented Times

Hear advice from our esteemed judicial panel on practicing and courtroom procedures during this unique time in our history. The panel will cover topics such as:

- How has Covid modified the court's practices, hearings, and trials.
- Advice for practitioners to streamline issues or be more persuasive when arguing remotely?
- How has the panel navigated Sixth Amendment issues during this period?
- Does the panel anticipate any lasting changes to courtroom procedure?
- How does this period create new and proposed opportunities for junior lawyers in court?
- What do judges do to encourage new opportunities, and what kind of requests are they seeking from litigants?

Moderator: Natalie DuBose, Haynes and Boone LLP, Dallas, TX

Speakers: Hon. D'Metria Benson, Dallas County Court at Law No. 1, Dallas, TX; Hon. Barbara Lynn, Northern District of Texas, Dallas, TX; Hon. Lana Myers, Fifth Court of Appeals, Dallas, TX

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Program Organizers

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Requests for refunds must be made in writing and received no later than **October 22, 2020** in the ABA Section of Litigation office. Please email your request to Corey Irion at Corey.Irion@americanbar.org. There will be a \$10 administrative fee deducted from the refund. Cancellations received after October 22, 2020 will not be refunded; however, the Section will gladly accept substitutions for those unable to attend.

MCLE Credit

The ABA will seek **6.0** CLE credit hours, including **1.0** hour of Ethics CLE credit in 60-minute states, and **7.2** CLE credit hours, including **1.2** hours of Ethics CLE credit, in 50-minute states. Credit hours are estimated and are subject to each state's approval and credit rounding rules. Please visit the program website at ambar.org/win for CLE program details or visit www.americanbar.org/mcle for general information on CLE at the ABA.

Tuition Assistance

A limited number of scholarships to defray registration fees may be available for government employees, public interest lawyers employed with nonprofits, academics, unemployed attorneys, and law students. For more information, please contact Corey Irion at corey.irion@americanbar.org by **September 24, 2020**.

Attendance List

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A limited amount of scholarships are available for this program. For more information, please contact Corey Irion at corey.irion@americanbar.org by **September 24, 2020**.

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- \$195.00** ABA Members
- \$235.00** Non-Members
- \$50** In-House Counsel
- FREE** Members of the Judiciary
- FREE** Law Students

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