



# **Emerging Insurance Coverage & Allocation Issues in 2013**

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**May 14, 2013**

**The Rittenhouse Hotel**

**Philadelphia, PA**

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## **CO-CHAIRS**

**David F. McGonigle, Esq., K&L Gates LLP  
Pittsburgh, PA**

**Tancred V. Schiavoni, III, Esq., O'Melveny & Myers LLP  
New York, NY**

# Event Agenda *Emerging Insurance Coverage & Allocation Issues in 2013*

**Tuesday, May 14, 2013**

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**8:00 AM – Registration and Continental Breakfast**

**Sponsored by: K&L Gates LLP and O'Melveny & Myers LLP**

**8:30 AM - Opening Remarks**

**David F. McGonigle, Esq.**, K&L Gates LLP, Pittsburgh, PA  
**Tancred B. Schiavoni, III, Esq.**, O'Melveny & Myers LLP, New York, NY

**8:45 AM – Charting the Right Course in 2013: A Closer Look at This Year's Emerging Insurance Coverage Issues**

- National overview of pending cases that may impact the insurance coverage landscape
- The long-tail that wags the dog: new issues in cases involving trigger, allocation and aggregate limits
- Products vs. non-products
- Precedent-setting decisions in 2012 – how will those rulings impact insurers going forward?
- The next battles in insurance coverage litigation
- Will concussion litigation become a headache for the insurance industry?

**Charles H. Mullin, PhD**, Bates White Economic Consulting, Washington, DC  
**Robert F. Cusumano, Esq.**, General Counsel, ACE Limited, New York, NY  
**James F. Dorion**, Global Practice Leader, Complex Liability Consulting, Marsh Risk Consulting, Chicago, IL  
**Thomas M. Ryan**, President, Resolute Management, Inc., Boston, MA

**9:45 AM – Break**

**10:00 AM – Pulling the Trigger: Knowing When (and Where) to Properly Allocate Liability**

- Jurisdiction and choice of law issues - all sums versus pro rata
- Occurrence and policy limits
- Adding up the parts – settlement offsets in all-sums jurisdictions
- The policy implications of pro-tanto vs. policy limit credits
- How real world situations create conflict between policy language and seamless coverage for long tail allocation

**Elaine Whiteman Klinger, Esq.**, Christie, Pabarue, Mortensen and Young, Philadelphia, PA  
**David F. McGonigle, Esq.**, K&L Gates LLP, Pittsburgh, PA  
**James F. Meehan**, General Counsel, Arrowood Indemnity, Charlotte, NC  
**Gary Svirsky, Esq.**, O'Melveny & Myers LLP, New York, NY  
**Michelle Uddin**, Managing Director, The Claro Group, LLC, Chicago, IL

## 11:00 AM – **In the Trenches: How to Manage Liabilities Once They Hit**

- Do you try to defend or settle?

**Eileen King Bower, Esq.**, Troutman Sanders LLP, Chicago, IL

**Christopher F. Dekker**, Associate General Counsel, Litigation & Employment, Brunswick Corporation, Lake Forest, IL

**Stephen Hoke, Esq.**, Hoke LLC, Chicago, IL

**Kevin J. O'Connor, Esq.**, Hermes Netburn, Boston, MA

**William P. Shelley, Esq.**, Gordon & Rees LLP, Philadelphia, PA

## 12:00 PM – **Lunch (on your own)**

## 1:15 PM – **Catastrophic Events – Lessons Learned From a Decade of Disasters**

- Preparation for the Big One
- When disaster preparedness is not enough
- Global CATS
- Business Interruption & Contingent BI
- When your own disaster recovery plan fails

**John Damico, CPA, Partner**, Matson Driscoll & Damico, Atlanta, GA

**James D. Engel**, Chief Claim Officer – US & Latin America, Liberty International Underwriters, New York, NY

**Nadine Hunt-Robinson**, Assistant Vice President- Environmental Claims, Zurich North America, New York, NY

**Philip C. Silverberg, Esq.**, Mound Cotton Wollan & Greengrass, New York, NY

## 2:15 PM – **Employment Related Claims**

- New Developments in Employment Law Affecting Coverage
  - Expanding Theories of Retaliation
  - Comcast and its Implications
- Emerging Issues in EPLI Coverage
  - Potential Coverage Gaps Relating to Notice Under EPLI and Other Claims-made Policies
  - EEOC Charges and Notice – Avoiding an Uninsured Class Action
  - Retaliation Claims and the Defense Obligation
  - Latest Developments on Knowledge and Intent

**Lynn H. Murray, Esq.**, Grippo & Elden, Chicago, IL

**James E. Scheuermann, Esq.**, K&L Gates LLP, Pittsburgh, PA

## 3:00 PM – **Break**

## 3:15 PM – **Insurance Issues in Bankruptcy Reorganization and Corporate Reanimation**

- National update on asbestos bankruptcy cases and associated coverage issues- Plant, Thorpe, Kentile, Porter Hayden, Federal-Mogul
- Products vs non-products
  - Choice of law
  - Occurrences

- Re-Animator: the resurrection of dissolved or defunct companies for available insurance assets
- Policy valuation – how do asbestos bankruptcy trust distribution procedures (TDP) impact uncovered losses
- A seat at the table: do insurers have standing in 524(g) proceedings?
- Asbestos bankruptcy trusts impact on the tort system – how is the lack of trust transparency currently impacting policyholders and insurers

**Robert D. Goodman, Esq.**, Debevoise & Plimpton LLP, New York, NY

**Kenneth B. McClain, Esq.**, Humphrey, Farrington & McClain, P.C., Independence, MO

**James P. Ruggeri, Esq.**, Shipman & Goodwin LLP, Washington, D.C.

**Tancred B. Schiavoni, III, Esq.**, O'Melveny & Myers LLP, New York, NY

## **4:15 PM – Cyber Security**

**Russell P. Cohen, Esq.**, Orrick, Herrington & Sutcliffe LLP, San Francisco, CA

**Michael Conley, Esq.**, Offit Kurman, Philadelphia, PA

**Toby Merrill**, Vice President, National Product Manager, ACE USA, Philadelphia, PA

## **5:00 PM – The Future of Litigation Risk Management: An Insurer and Policyholder Roundtable**

- New and developing strategies for assessing, quantifying and reserving for litigation expenditures
- The Next Asbestos – what areas of litigation are expanding and emerging?
  - Pharmaceutical litigation
  - Benzene and chemical exposure
- Looking into the crystal ball – what are the next big risks that will affect the insurance and reinsurance industries?

**Stephen Dzury**, Senior Vice President, Claims, WR Berkley Corporation, Philadelphia, PA

**Jonathan Terrell**, President, KCIC, Washington, DC

*Additional Speakers to be Added*

## **5:45 PM - 6:45 PM – Networking Cocktail Reception**

**Sponsored by: KCIC**

*\*Speakers and Agenda are subject to change.*

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