



# Insurance Bad Faith and Extra-Contractual Liability

## Bad Faith Palooza featuring:

Performances from rock stars in the insurance industry

New releases of emerging bad faith theories and developments

Practical advice to “amp up” your skills for defending bad faith claims and lawsuits

A backstage pass to network with other insurance coverage professionals

May 31–June 2, 2017

Hyatt Regency Boston

Boston, MA

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**B**ad faith claims and lawsuits are a growing concern to the insurance industry and must be handled with care and expertise from the start. The DRI Insurance Bad Faith and Extra-Contractual Liability Seminar will highlight the latest trends and developments in bad faith law. It will give insurance professionals at all levels, whether in-house or in private practice, the guidance and advice they need to avoid, curtail, and defend against bad faith claims and lawsuits.

Come to learn and network with your peers. Enjoy the sights and sounds of Boston. We invite you to register early.



**Catalina J. Sugayan**  
Program Chair



**Matthew S. Foy**  
Committee Chair



**W. Edward Carlton**  
Program Co-Vice Chair



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



**Naomi B. Kinderman**  
Program Co-Vice Chair



**Lee Craig**  
Law Institute

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## What You Will Learn

- Learn about first- and third-party bad faith trends and theories, including the *Restatement of Law on Liability Insurance*, from the perspectives of an insurance expert and a successful policyholder attorney.
- Become versed in unique bad faith exposures that arise from non-traditional policies, claims between insurers, reinsurance, institutional conduct, class actions, and post-litigation conduct.
- Gain insight (and two hours of ethics credit) into the potential for disclosure of confidential communications and conflicts that arise in the bad faith arena.
- Hear from veteran in-house and law firm practitioners about bad faith traps, including consent judgments, and how to fight back, particularly in insurance-unfriendly jurisdictions.
- Get practical advice for defending bad faith lawsuits from seasoned trial lawyers, in-house managers of extra-contractual litigation, and a trial consultant.




## 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 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, MAY 31

2:00 p.m. **Registration**3:00 p.m. **Money for Nothing: Bad Faith Claims Involving Deductibles, Retentions, Eroding Limits, and Non-Traditional Policies**

Learn about practical considerations when faced with bad faith exposure under policies with eroding limits or high deductibles, and better understand an insurer's duty of good faith while managing defense costs and satisfaction of deductible and retention obligations.


**Michael A. Hamilton**, *Goldberg Segalla LLP*, Philadelphia, PA

 **R. Wade Vandiver**, *Argo Group US Inc.*, San Antonio, TX

4:00 p.m. **What Goes Around, Comes Around: Bad Faith Claims Between Insurers**

Explore and hear solutions to disputes between insurers related to risk transfer, trigger and allocation issues, primary/excess conflicts, and reinsurance claims. Because the parties stand in each other's shoes, these disputes should be simple to resolve. However, they continue to challenge the insurance practitioner.

 **Michael A. Frantz**, *Munich Reinsurance America Inc.*, Princeton, NJ

 **Beth Zaro Green**, *W. R. Berkley Corporation*, Greenwich, CT

**Brian P. McDonough**, *Zelle McDonough & Cohen LLP*, Boston, MA

5:00 p.m. **Adjourn**6:00 p.m. **Networking Reception**

THURSDAY, JUNE 1

7:15 a.m. **Registration**7:15 a.m. **Continental Breakfast**SPONSORED BY **Burr & Forman LLP**7:15 a.m. **First Time Attendees Breakfast**

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

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Click on any speaker name to view bio.

8:15 a.m. **Welcome and Introduction**

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

**Catalina J. Sugayan**, *Sedgwick LLP*, Chicago, IL

8:30 a.m. **Ch-ch-Changes: Trends and Developments in Bad Faith Law**

Bad faith law is evolving. Learn about the emerging theories in third-party bad faith, damages, and the treatment of bad faith in the new *Restatement of the Law of Liability Insurance*.

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

9:30 a.m. **Different Drum: What Works for Policyholders in Bad Faith Cases and Why**

Hear about insurer bad faith from the perspective of a successful policyholder attorney.

**Leonard H. Kesten**, *Brody Hardoon Perkins & Kesten LLP*, Boston, MA

10:15 a.m. **Refreshment Break**10:30 a.m. **Do You Want to Know a Secret? Ethical Issues and Emerging Law Regarding the Use of Confidential Communications**

Recent decisions have restricted the application of the attorney-client privilege in bad faith cases and compelled disclosure of communications between attorneys and insurers (and sometimes reinsurers as well). In this session learn ways to protect against disclosure of these confidential communications.

 **Michael A. Frantz**, *Munich Reinsurance America Inc.*, Princeton, NJ

**Marcos G. Cancio**, *Sedgwick LLP*, Chicago, IL

 **Marjorie J. Sussman**, *Allied World Assurance Company*, Farmington, CT

11:30 a.m. **Burning Down the House: Defending Institutional Bad Faith Claims**

Institutional bad faith claims seek to demonstrate that claims handling conduct is part of a pervasive national, or even international, effort by the insurer to maximize profits. Dis-

cover practical strategies on how to thwart this approach.

**Asim K. Desai**, *Gordon Rees Scully Mansukhani LLP*, Los Angeles, CA

 **William J. Kobokovich, Jr.**, *Travelers*, Hunt Valley, MD

12:15 p.m. **Lunch** (*on your own*)

1:30 p.m. **The End of the World as We Know It: Defending Class Action and MDL Bad Faith Litigation**

Class actions and MDLs continue to be the vehicles of choice for aggregating bad faith claims related to hurricanes and catastrophes, RICO actions, consumer protection violations, and data breaches. Because recent statutory curbs may not reduce or eliminate these lawsuits, learn to use procedural strategies to weaken or eliminate these actions.

**Christopher W. Martin**, *Martin Disiere Jefferson & Wisdom*, Houston, TX

 **J. Peter Martin**, *State Farm Mutual Automobile Insurance Company*, Bloomington, IL

2:15 p.m. **Communication Breakdown: Ethical Dilemmas Faced by Defense Counsel When the Policyholder and Insurer Disagree About Strategy or Coverage**

Attorneys must be mindful of potential ethical traps when representing an insured. During this session, better understand who the client is; the attorneys' ethical obligations of zealous advocacy, loyalty, and confidentiality; and how to navigate the defense when the action involves covered and uncovered claims and settlement recommendations.

**W. Edward Carlton**, *Quilling Selander Lownds Winslett & Moser PC*, Dallas, TX

**Regina E. Roman**, *Sugarman Rogers Barshak & Cohen PC*, Boston, MA


3:15 p.m. **Refreshment Break**

3:30 p.m. **Eye of the Tiger: Practical Advice for Defending Bad Faith Lawsuits**

Our experts will provide practical advice about the claim representative at deposition and at trial, dispositive motions (including trying the bad faith case after losing summary judgment), the use of experts, effective motions in limine and jury charges, and cross-examination strategies.

MODERATOR | **Julia A. Molander**, *Cozen O'Connor*, San Francisco, CA

**Christopher W. Martin**, *Martin Disiere Jefferson & Wisdom*, Houston, TX

 **Demetrius E. Rush**, *Zurich North America*, Schaumburg, IL

5:00 p.m. **Adjourn**

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

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

7:00 p.m. **Dine Arounds** | Join colleagues and friends at selected restaurants for dinner (*on your own*). More details on-site.

FRIDAY, JUNE 2

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

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

8:00 a.m. **Announcements**

**W. Edward Carlton**, *Quilling Selander Lownds Winslett & Moser PC*, Dallas, TX

8:05 a.m. **Caught in a Trap: Identifying and Defeating Bad Faith Threats in First-Party Matters**

First-party bad faith is an entirely different animal from the kindred, but distinct, third-party species. Two veterans will survey current tactics in the practice and trends in the law and disclose the snares that lie afield and ways that the hunter might be captured by the game.

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

 **Anne Kevlin**, *American Integrity Insurance Co of FL Inc*, Tampa, FL

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8:45 a.m. **Highway to Hell: Maintaining Control When Faced With Third-Party Bad Faith Set-ups and Consent Judgments**  
Road warriors for the defense in the face of third-party bad faith set-ups or manipulative and abusive consent judgments will give a crash course on identifying these obstacles and erecting roadblocks.

MODERATOR | **Catalina J. Sugayan**,  
*Sedgwick LLP*, Chicago, IL

PANEL

**Michael B. King**, *Carney Badley Spellman PS*,  
Seattle, WA

**Russell F. Watters**, *Brown & James PC*,  
Saint Louis, MO

 **Kevin J. Willging**, *Travelers*,  
Hunt Valley, MD

10:00 a.m. **Refreshment Break**

10:15 a.m. **Blurred Lines: Post-litigation Conduct as Evidence of Bad Faith**

Allegations that post-litigation conduct by an insurer gives rise to further bad faith are becoming more common. From filing suit,

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to learning facts through aggressive depositions, to employing thorough investigators, and more, these talented presenters will address how courts parse through these allegations and decide evidentiary issues.

**James W. Bryan**, *Nexsen Pruet LLC*,  
Greensboro, NC

 **Naomi B. Kinderman**, *W. R. Berkley Corporation*, Greenwich, CT

11:00 a.m. **Mock Trials and Bull: Are Mock Trials and Jury Consultants Worth It?**

What provides the insights that jury consultants use in ably assisting counsel in jury selection? Our panelists will provide a lively interactive program demonstrating how jury consultants can be invaluable allies by offering themes, preparing witnesses, organizing focus groups, and providing reality checks, as well as limiting the biases of jurors.

**Susan G. Fillichio**, *DecisionQuest*,  
Los Angeles, CA

**Julia A. Molander**, *Cozen O'Connor*,  
San Francisco, CA

12:00 p.m. **Adjourn**

“Excellent opportunity to meet and connect with others in this very specialized part of the industry.”

## 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 MCLE credit by the State Bar of California for up to **12.25** hours, including **2** hours 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.**



A limited number of discounted hotel rooms have been made available at the **Hyatt Regency Boston, One Avenue de Lafayette, Boston, MA 02111** ([click here](#) to view hotel photos).

Take advantage of the group rate of **\$289 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 Bad Faith Seminar page** and click on the "Book hotel" button.
- 2) Or **contact the hotel directly at 617.912.1234** and mention the **DRI Insurance Bad Faith Seminar.**

The hotel block is limited and rooms and rates are available on a first-come, first-served basis. You must make reservations by **May 3, 2017**, to be eligible for the group rate. Requests for reservations made after **May 3, 2017** are subject to room and rate availability.

### Registration Policy

**Save \$100 when you register by May 3, 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 **May 10, 2017** (*please allow 10 days for processing*). Registrations received after **May 10, 2017**, will be processed on-site.

### Refund Policy

The registration fee is fully refundable for cancellations received on or before **May 10, 2017**. Cancellations received after **May 10** and on or before **May 17, 2017**, will receive a refund, less a \$100 processing fee. Cancellations made after **May 17** 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 **May 3, 2017**. After **May 3**, 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 Bad Faith Seminar** 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.

- 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

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

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

**James W. Bryan**, Nexsen Pruet LLC, Greensboro, NC

**Marcos G. Cancio**, Sedgwick LLP, Chicago, IL

**W. Edward Carlton**, Quilling Selander Lownds Winslett & Moser PC, Dallas, TX

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

**Asim K. Desai**, Gordon Rees Scully Mansukhani LLP, Los Angeles, CA

**Susan G. Fillichio**, DecisionQuest, Los Angeles, CA

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


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


 **Michael A. Frantz**, Munich Reinsurance America Inc., Princeton, NJ


 **Beth Zaro Green**, W. R. Berkley Corporation, Greenwich, CT

**Michael A. Hamilton**, Goldberg Segalla LLP, Philadelphia, PA

**Leonard H. Kesten**, Brody Hardoon Perkins & Kesten LLP, Boston, MA

 **Anne Kevlin**, American Integrity Insurance Co of FL Inc., Tampa, FL

 **Naomi B. Kinderman**, W. R. Berkley Corporation,

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Greenwich, CT

**Michael B. King**, Carney Badley Spellman PS, Seattle, WA

 **William J. Kobokovich, Jr.**, Travelers, Hunt Valley, MD


**Christopher W. Martin**, Martin Disiere Jefferson & Wisdom, Houston, TX

 **J. Peter Martin**, State Farm Mutual Automobile Insurance Company, Bloomington, IL

**Brian P. McDonough**, Zelle McDonough & Cohen LLP, Boston, MA


**Julia A. Molander**, Cozen O'Connor, San Francisco, CA

**Regina E. Roman**, Sugarman Rogers Barshak & Cohen PC, Boston, MA


 **Demetrius E. Rush**, Zurich North America, Schaumburg, IL

**Catalina J. Sugayan**, Sedgwick LLP, Chicago, IL

 **Marjorie J. Sussman**, Allied World Assurance Company, Farmington, CT

 **R. Wade Vandiver**, Argo Group US Inc., San Antonio, TX

**Russell F. Watters**, Brown & James PC, Saint Louis, MO

 **Kevin J. Willging**, Travelers, Hunt Valley, MD

View faculty bios on the **Insurance Bad Faith and Extra-Contractual Liability Seminar webpage**; click on "View speakers" button.

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## CLE for Your Practice

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March 15–17

### **Trial Tactics**

*The Venetian/Palazzo Resort,  
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April 5–7

### **Insurance Coverage and Claims Institute**

*Loews Chicago Hotel, Chicago, IL*

May 4–5

### **Retail and Hospitality Litigation**

*Loews Chicago Hotel, Chicago, IL*

May 11–12

### **Business Litigation**

*Loews Chicago Hotel, Chicago, IL*

June 15–16

### **Diversity for Success**

*Swissôtel Chicago, Chicago, IL*

June 22–23

### **Marijuana Law**

*Hotel 1000, Seattle, WA*

December 7–8

### **Insurance Coverage and Practice Symposium**

*Sheraton New York  
Times Square Hotel, New York, NY*

December 7–8

### **Professional Liability**

*Sheraton New York  
Times Square Hotel, New York, NY*

## Publications for Your Practice

Members can access committee newsletters and seminar course materials via **DRI Online** at **dri.org**.

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

Visit the **Insurance Law Committee page** on **dri.org** for information about the committee and related resources.

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

**May/October 2017** (*upcoming*)

**May/October 2016**

**May 2015**

### **Defense Library Series**

***Insurance Bad Faith: A Compendium of State Law***

***Duty to Defend Compendium***

***UM/UIM Coverage Compendium Compendium***

***Coverage B: Personal and Advertising Injury Compendium***

***Writing a Reservation of Rights: A North American Compendium***

***Unfair Claims Practices Compendium*** (*coming in 2017*)

***Rescission Compendium*** (*coming in 2017*)



### **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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# Insurance Bad Faith and Extra-Contractual Liability Seminar

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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 May 3, 2017	After May 3, 2017	
<input type="checkbox"/> Member	\$875	\$975	<i>For inclusion on the preregistration list and to receive course materials in advance, <b>register by May 10, 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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