



DRI delivers **resources** to build your practice

Insurance Bad Faith and Extra-Contractual Liability

NEW **LITIGATION SKILLS WORKSHOP** Strategies on Winning a 30(B)(6) Deposition *See page 2 for details*

- Meet and learn from in-house counsel who manage bad faith claims nationally
- Hear about the latest trends and tactics in bad faith and how to respond successfully
- Develop skills to defend institutional allegations, bad faith setups, and punitive damage claims
- Learn pretrial and trial strategies to win bad faith insurance lawsuits



June 5-7, 2019

Westin Washington, D.C., City Center
Washington, D.C.

Bad faith claims against insurance companies continue to evolve, with potentially devastating consequences. DRI's Insurance Bad Faith and Extra-Contractual Liability Seminar is the preeminent program for insurance executives, claims professionals, and outside counsel who specialize in bad faith insurance litigation. You will hear from some of the nation's leading bad faith defense lawyers, who have a long history of winning these difficult cases, as well as many of the in-house professionals who manage significant bad faith litigation and industry consultants who assist with these cases across the country, and beyond.

This seminar can attract record numbers, so we invite you to register early. Then, come enjoy this exceptional CLE and networking opportunity and the sights and sounds of Washington, D.C.



W. Edward Carlton
Program Chair



F. Lane Finch, Jr.
Committee Chair



Laurie C. Barbe
Program Co-Vice Chair



Kathleen J. (Kathy) Maus
Committee Vice Chair



Nancy J. Gill
Program Co-Vice Chair



Roman Lifson
Law Institute

PRESENTED BY **DRI's Insurance Law Committee**

Register online now at dri.org or complete the form in the back.

What You Will Learn



- The latest trends and developments in bad faith litigation
- Defeating the bad faith “setup” in liability insurance claims
- Discovery and pretrial strategy against institutional and predatory methods
- In-house perspectives on what insurers want and need from bad faith defense counsel
- Insight from industry consultants on witness preparation, focus groups, and mediation
- The effect of the *ALI Restatement of Law, Liability Insurance* on bad faith litigation
- Effective trial strategies used to win bad faith cases

Members Get More

- Access to **LegalPoint**™ at **dri.org**: Committee newsletters, seminar course materials, and other publications.
- Access to the **DRI Insurance Law Committee Community** at <http://community.dri.org/home>: Share articles, post blogs, and connect with others on the latest trends in your area of practice.
- Access to **dri circles**, where lawyer-to-lawyer connections happen. Search **dri circles** in your app store:



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PROGRAM SCHEDULE

WEDNESDAY, JUNE 5

12:00 p.m. **Registration**

LITIGATION SKILLS WORKSHOP

Wednesday, June 5, 1:00 p.m.–5:00 p.m.

Strategies on Winning a 30(B)(6) Deposition

Successful trial attorneys know that a properly prepared and defended 30(b)(6) deposition can be the turning point in any litigation. The DRI Litigation Skills Committee in conjunction with the DRI Insurance Law Committee are excited to present DRI's Bad Faith Litigation Skills Workshop, designed to provide attendees with the tools necessary to shape the deposition topics, prepare, and defend your 30(b)(6) witness and turn the case in your favor. One-on-

one and small group exercises will assure that you are ready to defend your client no matter what the circumstances. Space is limited to 30 attendees and spots will go fast! See registration form for pricing.

Guy E. Hughes, *Casey Bailey & Maines PLLC*, Lexington, KY

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

Christopher A. (Chris) Bottcher, *McGlinchey Stafford*, Birmingham, AL

Additional faculty to be determined

2:55 p.m. **Announcements**

➤ **Nancy J. Gill**, *American Modern Insurance Group*, Amelia, OH

3:00 p.m. **Hot New Cases in Bad Faith: Caselaw Update**

By popular demand, this session provides an overview of the latest bad faith decisions from around the country. Learn how courts are reacting to evolving theories of liability and how insureds and insurers are faring in the latest battles.

David L. Brown, *Goldberg Segalla LLP*, Greensboro, NC

4:00 p.m. **Fear of Trials? An In-House Perspective on the Vanishing Jury Trial and Outside Counsel's Perspective on How to Manage a Bad Faith Case**

This panel, including both in-house and outside counsel, will examine the growing perception that insurers are afraid to try cases. They will also share their perspectives on how to identify and defend those cases that can be won at trial.

Rhonda J. Tobin, *Robinson and Cole*, Hartford, CT

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

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

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

SPONSORED BY **Carr Maloney**

THURSDAY, JUNE 6

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

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

SPONSORED BY **Jeff Kichaven Commercial Mediation**

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

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

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

Roman Lifson, *Christian & Barton LLP*, Richmond, VA

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

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8:15 a.m. **Trends and Developments in Bad Faith Litigation: The Latest**

The ins and outs of bad faith litigation are ever evolving. Hear about the latest trends and tactics: the expanding consequences of breaching the duty to defend, personal liability of insurance adjusters, attacks on the attorney–client privilege in the prelitigation setting, the use of appraisal decisions and communications to create new extracontractual claims, the continuing evolution of bad faith “set up” strategies, and much more.

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

Ronald J. Clark, *Bullivant Houser Bailey PC*,
Portland, OR

9:15 a.m. **Institutional Bad Faith Claims: Defending Discovery and Other Practical Considerations**

Institutional discovery that transcends an individual claim and instead focuses on institutional business practices is frequently used by a plaintiff’s counsel to drive up the cost of defense and the value of the suit. Learn how to respond to and defend against these broad discovery attacks.

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

10:00 a.m. **Refreshment Break**
SPONSORED BY **McAngus Goudelock & Courie**

10:20 a.m. **Effective Strategies to Win Bad Faith Cases: Lessons Learned from Recent Victories**

An effective, well-planned defense strategy implemented from the inception of the case and carried through the conclusion of trial is essential. A successful bad faith defense attorney will explain the strategies and techniques that have worked for him to win dozens of high-profile bad faith cases across the country.

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

11:20 a.m. **Preparing Company Witnesses for Depositions and Trial**

Winning a bad faith case is increasingly difficult in today’s climate of juror suspicion and condemnation of large corporations. Find out what you can do to win a jury trial from a renowned

consultant—hint, preparing company witnesses for deposition and trial testimony is critical!

Rick R. Fuentes, PhD, *R&D Strategic Solutions LLC*, Mobile, AL

12:05 p.m. **Lunch (on your own)**

1:20 p.m. **Why Plaintiffs/Policyholders Win Bad Faith Claims**

The successful defense of a bad faith claim requires coverage counsel to anticipate their opponents’ strategies and arguments. In this unique presentation from the other side of the bar, two policyholder attorneys, moderated by an insurer-side attorney, will share their insights into litigation strategies and themes that succeed in bad faith cases, emerging areas of bad faith exposure, as well as the things that insurance companies (and their coverage counsel) do to make their job easier.

John G. Buchanan III, *Covington & Burling LLP*,
Washington, DC

Walter J. Andrews, *Hunton Andrews & Kurth LLP*, McLean, VA

John B. Mumford, Jr., *Hancock Daniel Johnson & Nagle PC*, Richmond, VA

2:10 p.m. **Ethical Issues Arising from Third-Party Bad Faith Setups and Consent Judgments**

It is not uncommon for policyholders or their counsel to manage a claim so as to “set up” the carrier for a subsequent bad faith action, laying traps along the way. It is crucial that the insurer recognize when this is happening and employ strategies to prevent bad faith liability. An experienced in-house professional and outside counsel will address ethical considerations and preventive strategies.

➔ **Krista Horn-Watkins**, *Travelers*,
Lake Tahoe, CA

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

3:10 p.m. **Refreshment Break**

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3:30 p.m. **Claims of Post-Litigation
“Continuing” Bad Faith**

Allegations of post-litigation conduct by an insurer as further bad faith conduct continue to trend upward. This experienced attorney will address current ways that plaintiffs’ counsel are bringing these allegations, traps for the unwary, and strategies to respond to such allegations.

Greg K. Winslett, *Quilling Selander Lownds Winslett & Moser PC*, Dallas, TX

4:15 p.m. **The Art and Science of Bad Faith Mediations**

With fewer and fewer cases ever reaching trial, effective and well-planned mediations can be an insurer’s best tool for getting extricated from a bad faith case. This presentation will provide insight and tips from the perspective of insurer counsel and a mediator to assure that you are ready to negotiate all factors and components of your case.

The Honorable Stuart A. Nudelman, Ret., *ADR Systems Mediation & Arbitration*, Chicago, IL

Laurie C. Barbe, *Step toe & Johnson PLLC*, Morgantown, WV

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

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

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

SPONSORED BY **Quilling Selander Lownds Winslett & Moser PC**

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

FRIDAY, JUNE 7

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

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

8:05 a.m. **Announcements**

Laurie C. Barbe, *Step toe & Johnson PLLC*, Morgantown, WV

8:10 a.m. **Punitive Damages: The Latest Trends and Theories**

In most jurisdictions, bad faith claims go hand in hand with demands for punitive damages. Punitive damages can dwarf the size of the actual claim, as juries strive to make an example of the insurance company and deter similar conduct in the future. The stakes are high! This presentation will share strategies for defending against and minimizing punitive damages awards and also discuss the latest trends and theories.

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

8:55 a.m. **Best Practices: What In-House Counsel Want and Need in Bad Faith Defense Counsel**

The successful defense of a bad faith action requires a true team effort, from the attorney handling the defense, to the claims professionals involved, to the in-house counsel providing oversight. This panel of in-house professionals will provide insight into the management of bad faith litigation and their perspectives on what outside counsel should know and attempt to provide in defending insurers against bad faith claims.

➤ **Jennifer D. Eubanks**, *Canal Insurance Company*, Greenville, SC

➤ **Nancy J. Gill**, *American Modern Insurance Group*, Amelia, OH

➤ **Byron P. Hansbro**, *State Farm Insurance Company*, Bloomington, IL

9:55 a.m. **Refreshment Break**

10:15 a.m. **ALI Restatement: What Happened and How It May Affect Extra-Contractual Claims**

In 2018, after eight years of debate and controversy, the American Law Institute approved its new *Restatement of Law, Liability Insurance*, including significant new provisions relating to obligations of insurers to make “reasonable settlement decisions” and to investigate, defend, and resolve claims against policyholders. Love it or hate it, this new *Restatement* will likely have a significant effect on the future of bad faith litigation. Two individuals who were

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deeply involved in its development and debate leading to ALI approval will discuss the key provisions bearing on bad faith claims and how they contrast with the common law approach that most states follow.

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

➔ **Thomas A. Chaseman**, *AIG*, New York, NY

11:00 a.m. **Use of Jury Consultants/Mock Trials/Focus Groups**

What insights can a jury consultant provide to assist counsel in risk assessment, theme development, and jury selection at trial? This presentation will take a deep dive into the four current generational groups that are eligible to serve on juries: traditionalists, baby boomers, Generation X, and millennials. Our panelists will provide a lively interactive program demonstrating how jury consultants can be invaluable allies in understanding these four groups, how themes can be developed and modified to resonate with each group, how mock trials

or focus groups can uncover case weaknesses and strengths of each group, and how voir dire questions can be constructed to expose bad jurors and hide favorable ones

Rick M. Goldberg, *Goldberg & Associates*, Houston, TX

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

11:45 a.m. **First-Party Property: Bad Faith Allegations in Catastrophic Claims**

Catastrophic claims present the perfect conditions for imperfect claims handling—real and perceived. Bad faith actions often spring from the many challenges resulting from sudden, severe, and widespread damages. This presentation identifies common problems associated with “CAT” claims and discusses how to avoid or mitigate exposure.

J. Pablo Cáceres, *Butler Weihmuller Katz Craig LLP*, Tampa, FL

12:30 p.m. **Adjourn**

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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, or its subsidiaries. To qualify for free registration, in-house counsel must be a DRI member and a member of the DRI Corporate Counsel Committee *or* be sponsored by a DRI member who is both registered and has paid for the seminar.

Nonmember in-house counsel may utilize this offer only once. This offer excludes the DRI Annual Meeting and the DRI Business Management Principles for Lawyers Seminar.

Claims Executives

Claims professionals are eligible for free registration to DRI seminars. Claims professionals are defined as any individuals employed by a corporation or insurance company, who spend a substantial portion of their professional time hiring or supervising outside counsel in the representation of businesses, insurance companies or their insureds, associations, or governmental entities in civil litigation. To qualify for free registration, the claims professional must be a DRI member under a corporate membership *or* be sponsored by a DRI member who is both registered and has paid for the seminar. **Nonmember claims professionals may utilize this offer once per calendar year. This offer excludes the DRI Annual Meeting.**

CLE/Claims Adjusters Accreditation

This seminar has been approved for MCLE credit by the State Bar of California for up to **14.75** 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 for the latest information for your state.

Registration Policy

Save \$100 when you register by May 7, 2019. (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 14, 2019** (*please allow 10 days for processing*). Registrations received after **May 14, 2019**, will be processed on-site.

Refund Policy

The registration fee is fully refundable for cancellations received on or before **May 14, 2019**. Cancellations received after **May 14** and on or before **May 21, 2019**, will receive a refund, less a \$100 processing fee. Cancellations made after **May 21** 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) 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 7, 2019**. After **May 7**, 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

A limited number of discounted hotel rooms have been made available at the **Westin Washington D.C. City Center, 1400 M Street NW, Washington D.C. 20005**.

Take advantage of the group rate of **\$259 Single/Double** in one of two ways:

- 1) Reserve online: Visit dri.org and go to the **DRI Insurance Bad Faith and Extra-Contractual Liability Seminar** page and click on the "Book hotel" button.
- 2) Or contact the hotel directly at 888-627-9035 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 7, 2019**, to be eligible for the group rate. Requests for reservations made after **May 7** are subject to room and rate availability.

FACULTY

Walter J. Andrews, Hunton Andrews & Kurth LLP, McLean, VA

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

Laurie C. Barbe, Steptoe & Johnson PLLC, Morgantown, WV

Christopher A. (Chris) Bottcher, McGlinchey Stafford, Birmingham, AL

David L. Brown, Goldberg Segalla LLP, Greensboro, NC

John G. Buchanan III, Covington & Burling LLP, Washington, DC

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

➤ **Jennifer D. Eubanks**, Canal Insurance Company, Greenville, SC

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

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Rick M. Goldberg, Goldberg & Associates, Houston, TX

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

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➤ **Byron P. Hansbro**, State Farm Insurance Company, Bloomington, IL

➤ **Krista Horn-Watkins**, Travelers, Lake Tahoe, CA

Guy E. Hughes, Casey Bailey & Maines PLLC, Lexington, KY

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

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

Roman Lifson, Christian & Barton LLP, Richmond, VA

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The Honorable Stuart A. Nudelman, Ret., ADR Systems Mediation & Arbitration, Chicago, IL

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

Rhonda J. Tobin, Robinson and Cole, Hartford, CT

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

Greg K. Winslett, Quilling Selander Lownds Winslett & Moser PC, Dallas, TX

View faculty bios on the Insurance Bad Faith Seminar webpage; click on "View speakers" button.



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.

Harassment and Discrimination

DRI is committed to the policy of equal opportunity regardless of race, color, religion, sex, sexual orientation, gender, national origin and disability in all of its programs and activities, as well as maintaining an environment in our programs and activities which is free from all forms of harassment or discrimination of any kind. Pursuant to this policy, if any person who attends our programs or activities experiences unlawful discrimination or harassment, this should be reported to the Executive Director so that appropriate action may be taken.

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June 5-7, 2019

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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 receptions, 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. Only members of DRI will have access to the PowerPoint presentations after the seminar.

	On or before May 7, 2019	After May 7, 2019
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*As defined on page 6

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June 5-7, 2019

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