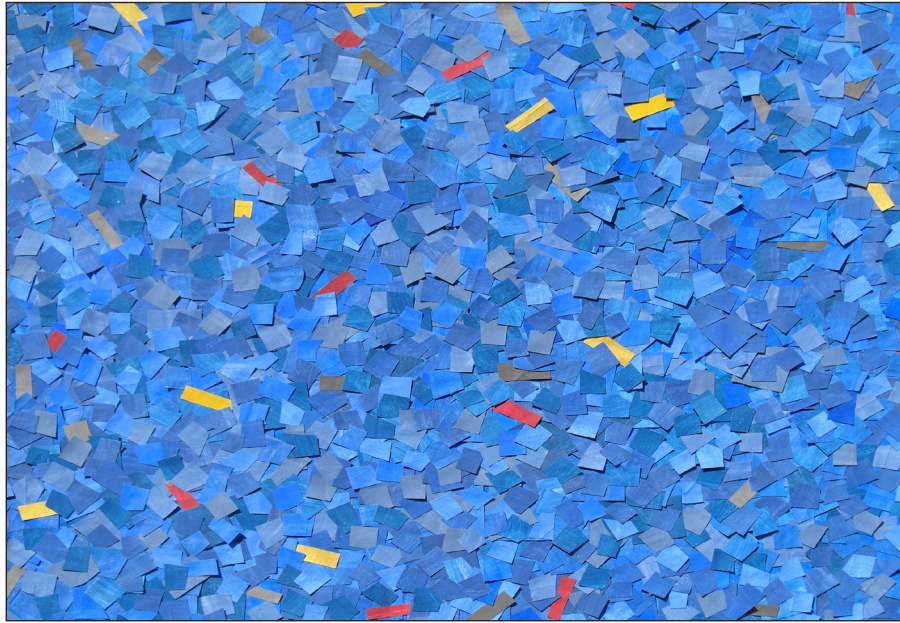


19<sup>TH</sup> ANNUAL

# INSURANCE LAW INSTITUTE



November 13–14, 2014  
Cityplace Conference Center ■ Dallas, Texas

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**INSURANCE LAW INSTITUTE**

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**THURSDAY MORNING, NOV. 13, 2014**

**Presiding Officer:**

**Vincent E. Morgan, Pillsbury Winthrop  
Shaw Pittman LLP, Houston, TX**

**7:30 a.m. Registration Opens**

Includes continental breakfast.

**8:35 a.m. Welcoming Remarks**

**8:45 a.m. 1.00 hr**

**How to Deal with Appraisals and Keep It  
from Going Amok?**

Use of the appraisal process in property insurance disputes has increased dramatically over the past few years. Is this the direct result of *State Farm v. Johnson*? Is it because of Hurricane Ike and recent severe hail storms? Or are there other reasons? Examine the current status of the Texas insurance appraisal process from both the policyholder and insurer perspectives.

Steven J. Badger, Zelle Hofmann Voelbel &  
Mason LLP, Dallas, TX

Timothy M. Hoch, Hoch Law Firm, PC, Fort Worth, TX

**9:45 a.m. .50 hr**

**The 85th Anniversary of Stowers**

The Stowers doctrine has now been a fixture in Texas insurance law for more than 85 years. Explore successes and failures in key cases, as well as recent developments that may impact how you approach these issues.

David H. Timmins, Gardere Wynne Sewell LLP, Dallas, TX

**10:15 a.m. Break**

**10:30 a.m. .50 hr**

**How to Write Reservation of Rights Letters  
Rightly and How to Respond to Them**

Often done, but often done wrong, learn the ABC's of Reservation of Rights letters and what to put in them, as well as how to respond to them.

Robert O. Lamb, Thompson, Coe, Cousins &  
Irons, L.L.P., Dallas, TX

**ABOUT THE COVER**

*Swallowed by the Moon*, 38" x 30", recycled grocery bags and acrylic, is by Philip Durst. For more information, visit [www.davisgalleryaustin.com/artist.durst.html](http://www.davisgalleryaustin.com/artist.durst.html)

**11:00 a.m. 1.00 hr ethics**

**What Clients Want**

Hear from an insurance broker, a major company senior counsel, and a carrier in-house attorney about what they are looking for from their attorneys and how they approach coverage issues.

Patrick Arthur, McQueary Henry Bowles Troy LLP,  
Dallas, TX

D. Christopher Heckman, Exxon Mobil Corporation,  
Irving, TX

Kiera O'Connell Goral, XL Group, Dallas, TX

**12:00 p.m. Pick Up Lunch**

Included in registration.

**THURSDAY AFTERNOON**

**Presiding Officer:**

**Stephen A. Melendi, Tollefson Bradley  
Mitchell & Melendi, LLP, Dallas, TX**

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**LUNCHEON PRESENTATION**

**12:20 p.m. .50 hr ethics**

**Things Insurance Lawyers Need to Know**

An examination of the special problems and challenges of practicing insurance law, including how to be a better coverage lawyer, how to avoid becoming a fact witness, how to avoid becoming an adjuster and other traps.

William J. Chriss, Law Office of William J. Chriss, P.C.,  
Of Counsel to Gravely & Pearson, L.L.P., Austin, TX

**12:50 p.m. Break**

**1:05 p.m. .50 hr**

**Understanding the Texas Department of  
Insurance's Role**

Gain a better understanding of the TDI's role as an agency.

Sara Waitt, Texas Department of Insurance, Austin, TX

**1:35 p.m. .50 hr**

**Environmental Claims: Old Battles, New Issues**

Discussion of the coverage battles that have historically existed in environmental claims and how the battlefields have shifted in the last few years. Particular emphasis is given to the impact of *Don Building* and *Lennar* on the current battles being fought in environmental cases.

R. Brent Cooper, Cooper & Scully, P.C., Dallas, TX

**2:05 p.m. .50 hr**

**Why You Should Care About *Gilbert*, *Ewing* and  
*Lennar* Outside of the Construction Context**

*Gilbert*, *Ewing* and *Lennar* are landmark cases with respect to Texas construction defect insurance law; however, these cases are relevant to many different types of coverage and bad faith disputes. *Gilbert* seems to sanction an insurer requiring an insured to move for summary judgment on counts that will eliminate a defense obligation and *Lennar* takes the prejudice requirement to a new level.

Robert D. Allen, Law Offices of Robert D. Allen, PLLC,  
Dallas, TX

**2:35 p.m. Break**

“ I love the absolute insurance geekiness of it, unapologetically geared to insurance practitioners. Good variety of topics, high quality of speakers and very timely topics. Very well organized with good topics and speakers. ”

2:45 p.m. .75 hr

**How to Pick Your Battlefield**

An important preliminary consideration in any insurance coverage action or bad faith lawsuit is whether the action should be filed in state or federal court. Identify the strategies employed by both insurers and policyholders to secure, and protect, the most advantageous forum.

J. James Cooper, Gardere Wynne Sewell LLP, Houston, TX  
Rhonda J. Thompson, Thompson, Coe, Cousins & Irons, LLP, Dallas, TX

3:30 p.m. .50 hr

**How to Make Mediation of Coverage Disputes Work Well Again**

Mediation has too often become more of an exercise rather than a help to settling cases. Hear some ideas from those on the front lines about how to make it useful once again.

**Moderator:**  
Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP, Houston, TX

**Panelists:**  
Jeff Kichaven, Jeff Kichaven Commercial Mediation, Los Angeles, CA  
Paul J. Van Osselaer, Van Osselaer Dispute Resolution PLLC, Austin, TX

4:00 p.m. 1.00 hr

**What Judges Want**

A distinguished panel of judges share their thoughts and opinions on what it takes for attorneys to successfully present insurance cases to both the judiciary and the venire, with helpful tips on what works and what does not.

**Moderator:**  
Lisa A. Songy, Shannon, Gracey, Ratliff & Miller LLP, Dallas, TX

**Panelists:**  
Hon. David C. Godbey, United States District Court, Dallas, TX  
Hon. Douglas S. Lang, Fifth Court of Appeals, Dallas, TX  
Hon. Jim R. Jordan, 160th Civil District Court, Dallas, TX  
Hon. Mark B. Greenberg, Dallas County Court at Law No. 5, Dallas, TX

5:00 p.m. Adjourn

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**RECEPTION**

Join us for drinks and hors d'oeuvres with program faculty and attendees

**FRIDAY MORNING, NOV. 14, 2014**

**Presiding Officer:**

**Stephen A. Melendi, Tollefson Bradley Mitchell & Melendi, LLP, Dallas, TX**

7:30 a.m. **Conference Room Opens**  
Includes continental breakfast.

8:45 a.m. .50 hr ethics

**The Bermuda Triangle in Texas: How to Navigate the Tripartite Relationship**

An overview of the who, what, where, when and how with regard to the tripartite relationship between an insurer, its insured, and the defense counsel, placing particular focus on the ethical dilemmas faced by the parties, and when the insured is entitled to the selection of independent counsel.

Jes Alexander, Dickey's Barbecue Restaurants, Inc., Dallas, TX

9:15 a.m. .50 hr

**Pattern and Practice in Claims Handling**

Is a carrier's course of treatment of other claims for the same insured relevant? What if it is a different insured? Is there a new national trend developing?

Michael W. Huddleston, Munsch Hardt Kopf & Harr, P.C., Dallas, TX

9:45 a.m. .50 hr

**Current Insurance Issues Arising Out of the Oil Patch**

A survey of recent, significant decisions construing Texas law across a broad array of oil patch claims including control of well, personal injury, business interruption, pollution, subrogation and additional insured status.

Claude L. Stuart III, Hall Maines Lugin, P.C., Houston, TX

10:15 a.m. **Break**

10:30 a.m. .50 hr

**How to Deal with Additional Insured Issues**

Additional insured issues can present unique problems, ranging from choice-of-law, the interplay of the policy and the underlying agreement between two counter-parties, and "other insurance" clauses. Learn how to properly analyze these issues so you are prepared to deal with them when they arise.

Ernest Martin Jr., Haynes and Boone, LLP, Dallas, TX

11:00 a.m. .50 hr

**The Cobbler's Children Have No Shoes: Professional Lines Issues**

All too frequently, insurance coverage lawyers know little about their own E&O insurance policies. An exploration of E&O issues that every lawyer should know when submitting the application, evaluating available coverages and asserting a claim under the policy, including a review of disclosure and reporting issues, construction and application of "innocent insured" provisions, coverage for fee disputes, tail coverage, and various exclusions to coverage.

Veronica Carmona Czuchna, Duggins Wren Mann & Romero, LLP, Austin, TX

11:30 a.m. .75 hr

**Business Interruption and Time Element Coverage**

A primer on key business interruption and the time element coverage, along with a discussion of how to prepare a claim for these losses.

**Moderator:**  
Beth D. Bradley, Tollefson Bradley Mitchell & Melendi, LLP, Dallas, TX

**Panelists:**  
Peter Hagen, Hagen, Streiff, Newton & Oshiro Accountants, PC, Dallas, TX  
Nigel P. Henley, EY, Dallas, TX

12:15 p.m. **Pick Up Lunch**

Included in registration.

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**FRIDAY AFTERNOON****Presiding Officer:**

**Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP, Houston, TX**

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**LUNCHEON PRESENTATION**

**12:35 p.m. 1.00 hr**

**Legal Writing in Plain English**

Designed for lawyers, judges, legal scholars, law students, and paralegals alike, this presentation focuses on sound writing advice and practical tools. The goal, in essence, is to teach straight-thinking by studying:

- Principles applicable to all legal writing
- Principles mainly for analytical and persuasive writing
- Principles mainly for legal drafting
- Principles of document design
- Ways to continue improving your writing skills

Bryan A. Garner, LawProse, Inc., Dallas, TX

**1:35 p.m. Break**

**CONFERENCE FACULTY**

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Dallas, TX

VINCENT E. MORGAN  
Pillsbury Winthrop Shaw Pittman LLP  
Houston, TX

KIERA O'CONNELL GORAL  
XL Group  
Dallas, TX

**1:50 p.m. .50 hr**

**Personal Lines Issues: Homeowners and Auto**

Review of leading edge cases in homeowners and auto insurance litigation.

George L. Lankford, Martin Disiere Jefferson & Wisdom, Dallas, TX

**2:20 p.m. .50 hr**

**What is Bad Faith Today?**

An update on extracontractual claims under Chapters 541 and 542 and the common law duty to good faith and fair dealing, including the current state of the "independent injury rule", adjuster liability, and recovery of attorney fees in absence of damages.

David J. Schubert, Schubert & Evans PC, Dallas, TX

**2:50 p.m. .50 hr**

**Whose Agent Is It? Broker Liability Issues**

Insurance agent liability issues, including whether the retail agent is the agent for the insured or the insurer, with discussion of common claims and defenses.

Thomas A. Culpepper, Thompson, Coe, Cousins & Irons, LLP, Dallas, TX

**3:20 p.m. .75 hr**

**Post-Lennar: What's Next?**

The post-Lennar world reveals several issues raised by settlements and/or judgments in connection with policy conditions, trigger, and allocation.

Aaron Mitchell, Tollefson Bradley Mitchell & Melendi, LLP, Dallas, TX  
Lee H. Shidlofsky, Shidlofsky Law Firm PLLC, Austin, TX

**4:05 p.m. Adjourn**

**M  
C  
L  
E**

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.75 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

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Call 512.475.6700 or email service@utcle.org

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November 13–14, 2014

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**Cityplace Conference Center**  
2711 North Haskell Avenue  
Dallas, Texas  
214.515.5100

### NEARBY ACCOMMODATIONS

Warwick Melrose Hotel Dallas  
3015 Oak Lawn Avenue  
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214.521.5151

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**November 5, 2014**

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add \$50 for registrations  
received after this time

**November 7, 2014**

*last day for cancellation (full refund)*

**November 10, 2014**

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**November 13, 2014, 8:35 a.m.**

*Institute begins*

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