

The American College of Coverage Counsel and University of California at Hastings
cordially invite you to their Fall 2020 webinar titled

Evolving Insurance Law Responses to the Global Pandemic

November 17, 2020
Noon – 1:30 p.m. Pacific Time
Zoom Webinar

As the global pandemic near its first anniversary, it has ushered in a host of insurance law issues, some old and some new. The American College of Coverage Counsel, a leading organization of lawyers representing leading policyholder and insurer-side advocates, has joined forces with the UC-Hastings Law School to provide an insightful overview of the evolving dynamics of these claims and resultant coverage litigation. In this webinar, insurance law experts will examine major pandemic-related issues and evaluate the strategies that policyholders and insurers alike are deploying in the nationwide contest over whether these losses will be covered.

Program:

- 1. Introduction: Leo Martinez (Albert Abramson Professor of Laws, UC Hastings)**
- 2. Evolution of Pandemic Insurance Disputes and Suits**
Michael Aylward (Morrison Mahoney-Boston)

Since the first DJ was filed in March 2020, over 1500 individual suits and class actions have been filed across the United States. Mr. Aylward will track the evolving form that these suits have taken, the mid-Summer battle over Multi-District consolidation and the emergence of case law since August.

- 3. How Will Jurors Judge Pandemic Disputes?**
Christopher Martin (Martin, Disiere---Houston)

While many of these cases are being decided on motion practice, some will eventually go to trial. How will jurors weigh the competing claims of the parties? Since the scope of the pandemic emergency became clear at the start of 2020, Mr. Martin has conducted a wide-ranging survey of attitudes of likely jurors—a survey that has yielded surprising and sometimes shocking results.

4. Do Pandemic Claims Involve A “Direct Physical Loss”?

Suzan Charlton (Covington & Burling-D.C.)

Rick Hammond (Hepler Broom—Chicago)

Much of the early coverage litigation has focused on whether insureds can establish “direct physical loss of or damage” to their property to obtain coverage for pandemic-related Business Income losses. Similar issues have also arisen with respect to Civil Authority and Dependent Property coverage claims, although each also present its own issues. What arguments have the parties raised to date and how have courts responded?

5. Will Virus or Microorganism Exclusions Prevail?

Laura Foggan (Crowell & Moring-D.C.)

John Shugrue (Reed Smith-Chicago)

“Virus” exclusions have also been a prominent part of the recent coverage rulings. Will policyholders be able to overcome virus exclusions by argument that the ISO/AAIS forms were not meant to address pandemics or that these losses are not actually caused by a virus. Are there other exclusions that insurers are asserting under policies that lack “virus” exclusions?

6. Evolving Tactics and Litigation Strategies

Christine Haskett (Covington & Burling-San Francisco)

Greg Varga (Robinson & Cole—Hartford)

Are there lessons that can be learned from the first eight months of this coverage litigation or trends that are already evident? How do we foresee this litigation continue to grow or evolve in 2021?

7. Questions and Answers

FACULTY

Michael F. Aylward
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Michael is a senior partner in the Boston office of Morrison Mahoney LLP where he chairs the firm's Complex Claims Litigation Group. He is the immediate past president of the American College of Coverage Counsel and represents insurers in a number of these cases.

Suzan Charlton
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Suzan Charlton is an attorney in the Washington, D.C. office of Covington & Burling, where she represents policyholders in major coverage cases around the country. In addition to her corporate insurance practice, she also represents indigent clients and non-profit organizations in their insurance recovery efforts. Suzan has been recognized as a "SuperLawyer" in Washington, D.C. and a frequent author and speaker on myriad insurance topics.

Laura Foggan
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Laura Foggan is the chair of the Insurance/Reinsurance practice group at Crowell & Moring and is a *Chambers*-ranked Band 1 practitioner and included in the *Best Lawyers in America* Directory, including being named a "Lawyer of the Year" for 2020. She has played a leading role in advising insurers about pandemic claims over the last few months.

Rick Hammond
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Rick Hammond is a senior partner in the Chicago office of Hepler Broom and represents insurance companies in complex coverage litigation and bad faith disputes. Over the course of his career, Rick has served as the Assistant Deputy Director of the Illinois Department of Insurance and has worked in senior roles for two national insurers and is an adjunct professor at the Loyola law school in Chicago. He is currently the co-chair of the ACCC's Property Insurance Committee.

Christine Haskett
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Christine Haskett is a partner in the San Francisco office of Covington & Burling and a 1996 graduate of UC Hastings College of Law where she represents businesses in large commercial insurance disputes around the United States, including several recent high profile disputes involving business interruption claims. She is a member of the Board of Directors of United Policyholders.

Christopher Martin
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Chris Martin is the founding partner of his firm. For the last 2 decades, Chris has been at the center of every major natural catastrophe in the United States and the insurance litigation that ensued from them. He is the author of three legal Treatises on Texas Insurance Law, he is a frequent speaker at state and national insurance programs and conferences, and previously he served as the professor of Insurance Law at the University of Houston Law School for 10 years.

John Shugrue
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John Shugrue is a senior partner in Reed Smith's Insurance Recovery Group in Chicago. In addition to wide experience with all major U.S. insurers, he is experienced in litigation, mediation and arbitration with Lloyd's and other London, European and Bermuda market insurers. He is a past co-chair of the Insurance Coverage Litigation Committee of the ABA Section of Litigation and took a leading role in creating the ABA's Manual for Complex Insurance Coverage Litigation.

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Greg Varga is a partner in the Hartford office of Robinson & Cole, where he chairs the firm's Insurance & Reinsurance Group, which serves as national counsel for several property insurers in the COVID-19 coverage litigation. For 25 years, Greg has represented insurance companies and underwriters nationally in complex litigation and arbitration arising from a wide variety of catastrophes. He is a member of the Federation of Defense and Corporate Counsel.