

# Insurance *in the* Construction Industry



MARCH 23 & 24,  
2017

HILTON GARDEN  
INN MIDTOWN

Atlanta, GA

## ACCREDITATION

### GA CLE

9.5 Hours, incl. 1.0 Ethics

### GA Insurance

12.0 Property Hours

### IRMI

7.0 Reccreditation Credits

### TN CLE

9.75 Hours, incl.  
1.0 Dual Hours

## WHO SHOULD ATTEND

Attorneys/Legal Staff  
Insurance Professionals  
Architects  
Contractors  
Engineers  
Planners  
State and Municipal  
Officials  
Utility Managers  
Anyone Involved in the  
Construction Industry

## Why You Should Attend:

*Given the fast pace of today's business world and the ever-changing world of construction growth, understanding the legal and regulatory framework within the insurance industry has become paramount for individuals and businesses alike. Insurance for Construction Claims impacts all demographics, all organizations, and all businesses whether public or private. Understanding the present state of the insurance industry is important not only for insurance professionals, but for anyone who owns property, conducts business, or operates in a public setting. This program will give you the tools you need to understand the evolving Construction Insurance Industry, from Case Law Updates to current complex issues such as Duty to Defend, Duty to Settle, Additional Insured Endorsements, and OCIPs, CCIPs, WRAPs and Non-Traditional Insurance. We will also address Ethical Considerations: The Cumis Doctrine, Single Versus Multiple Occurrences Under a CGL Insurance Policy, Builder's Risk Insurance, Commercial General Liability Insurance and Effective Mediation Strategies. Please plan to join our outstanding faculty as we address these issues at the Insurance in the Construction Industry Conference.*

### Program Chair:

J. Stephen Berry

*Dentons US*



## 5 EASY WAYS TO REGISTER

- 1 ONLINE: [www.TheSeminarGroup.net](http://www.TheSeminarGroup.net)
- 2 FAX: 866-435-3444
- 3 EMAIL: [info@TheSeminarGroup.net](mailto:info@TheSeminarGroup.net)
- 4 PHONE: 206-463-4400 / 800-574-4852
- 5 MAIL: PO Box 523, Vashon, WA 98070



ACCREDITED  
BUSINESS

**9:00 Introduction and Overview**

**J. Stephen Berry**, *Program Chair*  
*Dentons US*

**9:10 Recent Case Law Update**

- Waiver and Estoppel
- Notice as a Condition Precedent to Coverage
- Real Property and the Your Work Exclusion
- General Contractor/Subcontractor Issues

**Stephen J. Rapp**  
*Weinberg Wheeler Hudgins Gunn & Dial LLC*

**10:15 Break****10:30 Duty to Defend**

- Standard Under CGL Policy
- Scope of Duty
- Duty to Defend and Reservation of Rights Letters
- Effect of Insurer Refusing to Defend

**Seth M. Friedman**  
*Lewis Brisbois Bisgaard & Smith LLP*

**11:30 Midday Break****12:45 Duty to Settle**

- General Requirements
- Is an Excess Judgment Required?
- Does an Excess Carrier have a Claim against Primary Carrier that Fails to Settle?

**Ben C. Brodhead**  
*Brodhead Law LLC*  
**Shattuck "Tucker" Ely**  
*Fellows LaBriola LLP*

**2:15 Break****2:30 Commercial General Liability Insurance**

- What is Covered Under Commercial General Liability Insurance?
- What Constitutes an "Occurrence"?
- Most Commonly Encountered Business Risk Exclusions
- Is Defective Workmanship an "Occurrence"?
- Subcontractor Exception to the "Your Work" Exclusion
- CGL Coverage Litigation

**Stephen M. Phillips**  
*Hendrick Phillips Salzman & Flatt PC*

**3:15 Additional Insured Endorsements**

- Different Endorsement Forms Create Different Obligations
- Scope of Additional Insured Obligations
- Coverage for Construction Defect Claims under "Ongoing Operations" Endorsements
- Recent Case Law

**Austin Bersinger**  
*Dentons US*

**4:00 OCIPs, CCIPs, WRAPs and Non-Traditional Insurance**

- Difference Between OCIPs and CCIPs
- Deductible Contributions by Trade Contractors
- Pitfalls of OCIPs

**Mary Katherine Tinsley**  
*Carlton Fields*

**5:00 Adjourn**

Friday, March 24, 2017

**9:00 Introduction and Overview**

**J. Stephen Berry**, *Program Chair*  
*Dentons US*

**9:05 Ethical Considerations: The Cumis Doctrine**

- In General
- Typical Reservations of Rights Triggering a Cumis Obligation
- Potential Claims Against Cumis Counsel
- Practical Considerations

**Scott F. Bertschi**  
*Clyde & Co US LLP*

**10:05 Single Versus Multiple Occurrences Under a CGL Insurance Policy**

- In General
- Impact on Policy Deductibles, Self-Insured Retentions and Retained Limits
- Application to Construction Defect Claims
- Current Case Law

**Lawrence J. Bracken II**  
*Hunton & Williams LLP*

**10:45 Break****11:00 Builder's Risk Insurance**

- What is Builders Risk Insurance and How Does it Differ from CGL?
- What is Covered by Builders Risk Insurance?
- Who Purchases Builders Risk Insurance and Whom Does it Protect?
- Subrogation and Waiver Issues Relating to Builders Risk Insurance

**Robert B. Wedge**  
*Smith Moore Leatherwood LLP*

**11:45 Effective Mediation Strategies**

- Compelling Attendance by Decision-makers at Mediation
- Settling Parts of Cases
- Insurance Strategies at Mediation
  - Policy Limits Demands
  - Additional Insured Indemnity Demands

**Jennifer B. Grippa**  
*and*

**Lynn M. Roberson**  
*Miles Mediation & Arbitration Services LLC*

**12:45 Adjourn**

## Insurance in the Construction Industry



**J. Stephen Berry**, Program Chair, is a partner with Dentons US, and he leads the insurance coverage and bad faith team in the Atlanta office. His practice focuses on general liability, construction defect, media and advertising liability and first-party property claims. His practice includes litigation, coverage advice, regulatory investigations, appellate and amicus briefing and policy drafting.

**Stephen M. Phillips** is a senior partner in the law firm of Hendrick Phillips Salzman & Flatt PC in Atlanta, Georgia. His law practice focuses upon legal issues pertaining to the construction industry and particularly the commercial roofing industry. He has gained national recognition concerning legal issues affecting the roofing industry.



**Austin Bersinger**, attorney with Dentons US, handles complex insurance coverage issues and disputes as a litigator for numerous international and domestic insurance carriers. He concentrates his practice on coverage litigation in federal and state trial and appellate courts on issues relating to torts, contracts, business organizations, as well as liability and coverage matters for insurers.



**Stephen J. Rapp** is a partner with Weinberg Wheeler Hudgins Gunn & Dial LLC. His civil litigation practice focuses on insurance coverage, business issues, and construction disputes. He regularly represents and advises insurance companies on a variety of issues, and has successfully tried several construction and business-related cases.



**Scott F. Bertschi**, partner with Clyde & Co US LLP, focuses his practice on insurance coverage, professional liability defense and data breach response. He represents insurance companies in litigating coverage disputes and also advises on all aspects of the claims-resolution process. He regularly represents lawyers and other professionals in malpractice suits and ethics investigations.

**Lynn M. Roberson**, certified mediator with Miles Mediation & Arbitration Services LLC, has practiced litigation for over 35 years. She has handled litigation and trial work in the areas of premises liability for violent crime, other premises liability, pharmacy liability, automobile/truck accident cases, products liability, malicious prosecution, and other personal injury law, as well as insurance coverage matters.



**Lawrence J. Bracken II**, partner with Hunton & Williams LLP, has 30 years of experience negotiating, arbitrating and litigating more than 500 insurance coverage matters involving CGL, excess liability, E&O, technology E&O, D&O, property, business interruption, environmental, inland marine, health, life and disability coverage.



**Mary Katherine Tinsley**, attorney with Carlton Fields, focuses her practice on construction related matters such as construction defects, payment and performance bond claims, breach of construction contract, and construction lien law matters. She also works on other business litigation matters, such as mortgage foreclosures, breach of contract matters, and notary law.



**Ben C. Brodhead**, founder of Brodhead Law LLC, has handled significant personal injury litigation for nearly twenty years. He has successfully litigated hundreds of serious personal injury cases across the country and has recovered millions of dollars in settlements and verdicts for his clients. He has been recognized as a Georgia Super Lawyer consecutively for the last ten years.

**Robert B. Wedge**, partner in charge with Smith Moore Leatherwood LLP, is an experienced trial lawyer who engages in litigation involving construction contracts and claims, commercial contracts and leases, professional liability claims involving attorneys, architects and engineers, insurance coverage and surety bond disputes, and personal injury, wrongful death and property damage claims.



**Shattuck "Tucker" Ely**, partner with Fellows LaBriola LLP, is a trial lawyer focusing on the representation of policyholders in insurance coverage disputes. He has recovered more than \$70 million for his clients under a variety of insurance policies. In addition to advising policyholder clients, he has extensive experience in insurance coverage litigation and has successfully tried coverage cases to verdict.



**Seth M. Friedman** is a partner in the Atlanta office of Lewis Brisbois Bisgaard & Smith LLP and a member of the Insurance Coverage and Bad Faith Litigation Practices. He has extensive experience claim counseling and litigating in a wide variety of insurance coverage areas. He also handles extra-contractual claims and suits.

**Jennifer B. Grippa** is a certified mediator with Miles Mediation & Arbitration Services, LLC and is an experienced trial lawyer. She has mediated, litigated and/or arbitrated construction contract claims, construction defect disputes, surety bond claims, general liability cases, property damage claims, and business litigation matters.



## Conference Information

### Course Accreditation

This course has been approved by the Commission on Continuing Lawyer Competency of the State Bar of Georgia for mandatory continuing legal education credit in the amount of 9.5 hours, of which 1.0 hour will also apply in the area of ethics. This course has been approved by the Georgia Dept. of Insurance Agents Licensing Division for 12.0 property hours. This course has been approved by the IRMI for 7.0 hours of CRIS reaccreditation credits. This course has been approved by the Tennessee Commission on Continuing Legal Education for a maximum of 9.75 hours of credit including 1.0 dual hours. For information or accreditation in other states, please call THE SEMINAR GROUP at (206) 463-4400 or (800) 574-4852.

### Substitution/Cancellation

You may substitute another person at any time. We will refund tuition, less a **\$50 cancellation charge**, if we receive your cancellation by **Friday, March 17, 2017**. No refunds will be given after this date. *Please note that if you do not cancel by the deadline and/or do not attend, you are still responsible for payment.*

### Seminar Location

The seminar will be held at the Hilton Garden Inn Midtown, 97 10th Street NW, Atlanta, GA, (404) 524-4006. Please call the hotel for directions/questions. A block of sleeping rooms has been reserved until 2/22/17. To make a reservation call reservations department at 800-445-8667 or 404-524-4076 between 7:30 AM and 7:30 PM and mention The Seminar Group.



**Insurance in the Construction Industry**

March 23 & 24, 2017 • Hilton Garden Inn Midtown • Atlanta, GA

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**Attendance Fees**

- Attorney \$699
- Government/ Nonprofit \$599
- Other Professionals \$499

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