

# Environmental Claims and Insurance Coverage Crash Course



May 21, 2010 | 750 Lexington Avenue, New York

**CONFERENCE CHAIRS:**

Lisa M. Cirando, Esq., Orrick, Herrington & Sutcliffe LLP, New York

Peter J. Mintzer, Esq., Cozen O'Connor, Seattle

Ira Gottlieb, Esq., McCarter & English, LLP, Newark, NJ

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| <p>8:15 Continental Breakfast and Morning Registration</p> <p>8:45 Welcome and Opening Remarks</p> <p>9:00 <b>Soup to Nuts: Statutory and Regulatory Frameworks</b><br/> <ul style="list-style-type: none"> <li>• Federal and state environmental cleanup administrative proceedings and litigation</li> <li>• CERCLA-liability among parties, limits on recovery and how a CERCLA case actually plays out</li> <li>• The Clean Air and Water Acts</li> <li>• NRD Claims</li> </ul> <b>Bonnie Allyn Barnett, Esq., Drinker Biddle &amp; Reath LLP, Philadelphia</b><br/> <b>Loren Dunn, Esq., Riddell Williams P.S., Seattle</b></p> <p>9:45 <b>Current and Emerging Scientific, Technical &amp; Regulatory Issues</b><br/> <ul style="list-style-type: none"> <li>• Timing damage &amp; discussion of the MA Supreme Court Re: Boston Gas</li> <li>• Expected/Intended: History of waste management practice</li> <li>• Recent regulatory pressures to increase financial disclosure of environmental and climate change exposures</li> </ul> <b>Neil Shifrin, Ph.D., Gnarus Advisors, Waltham, MA</b><br/> <b>Christopher McClure, Director, Navigant Consulting, Inc., Chicago</b></p> <p>10:30 Morning Break</p> <p>10:45 <b>Climate Change Nuisance Cases &amp; Related Coverage Litigation</b><br/> <ul style="list-style-type: none"> <li>• Current status of climate change nuisance litigation</li> <li>• Coverage issues associated with climate change claims</li> <li>• Impact of international &amp; federal regulation of greenhouse gases</li> </ul> <b>William Stewart, Esq., Cozen O'Connor, West Conshohocken, PA</b></p> <p>11:15 <b>Underlying Litigation Case Updates &amp; Emerging Areas</b><br/> <ul style="list-style-type: none"> <li>• Surface water cases</li> <li>• Natural resource damages: What is still percolating?</li> <li>• Global warming: The brave new world</li> <li>• Emerging environmental claims</li> <li>• Case updates-the BNSF Supreme Court Case &amp; the cases that follow it and other important states cases paving the way</li> </ul> <b>Ira Gottlieb, Esq., McCarter &amp; English, LLP, Newark, NJ</b><br/> <b>Brian Israel, Esq., Arnold &amp; Porter LLP, Washington, DC</b></p> <p>12:15 <b>Networking Luncheon</b></p> <p>1:15 <b>Fundamental Issues in Environmental Insurance Claims</b><br/> <ul style="list-style-type: none"> <li>• "Occurrence-based" coverage: Has there been an occurrence during the policy?</li> <li>• Exclusions</li> <li>• Trigger and Allocation</li> <li>• Other Important Issues</li> </ul>                     - Choice of Law<br/>                     - Forum<br/> <ul style="list-style-type: none"> <li>• The typical general liability and professional liability case: What do you need to know?</li> </ul> <b>Peter Mintzer, Esq., Cozen O'Connor, Seattle</b><br/> <b>Huhsik Chung, Esq., Edwards Angell Palmer &amp; Dodge LLP, New York</b><br/> <b>Suzan Charlton, Esq., Covington &amp; Burling LLP, Washington, DC</b><br/> <b>Thomas Cinti, Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, Region III, Philadelphia</b></p> | <p>2:15 <b>The Brave New World of Coverage</b><br/> <ul style="list-style-type: none"> <li>• Claims arising under pollution legal liability and the new generation of environmental insurance products</li> <li>• CGL, D&amp;O and E&amp;O claims for global warming liabilities</li> <li>• NICC disclosure requirement-its practical impact</li> <li>• Green building claims: Professional liability and E&amp;O claims</li> <li>• Emerging Issues: Nanotechnology claims, toxic tort claims and other issues</li> </ul> <b>Lisa M. Cirando, Esq., Orrick, Herrington &amp; Sutcliffe LLP, New York</b><br/> <b>Edward Ozog, Esq., Clausen Miller, P.C., Chicago</b><br/> <b>Robert Chesler, Esq., Lowenstein Sandler PC, Roseland, NJ</b><br/> <b>Timothy Stalker, Esq., Stalker Vogrin Bracken Frimet, Philadelphia</b></p> <p>3:15 Afternoon Break</p> <p>3:30 <b>Allocating Damages in the Underlying Cases and Coverage Litigations</b><br/> <ul style="list-style-type: none"> <li>• The impact of cap and trade schemes on property, energy and business interruption losses</li> <li>• Climate change loss scenarios</li> <li>• Environmental loss allocation scenarios</li> <li>• Coverage allocation scenarios</li> </ul> <b>Jason Reeves, Esq., Zelle Hofmann, Dallas</b><br/> <b>William Hengemihle, Managing Director, LECG, Inc., Wayne, NJ</b><br/> <i>Additional speaker to be announced.</i></p> <p>4:30 <b>Ethical Issues Arising in the Context of the Defense of Environmental and Coverage Litigation</b><br/> <ul style="list-style-type: none"> <li>• The Effect and Interplay of ABA Model Rules</li> <li>- 1.5: Fees</li> <li>- 1.6: Confidentiality of Information</li> <li>- 1.7: Conflict of Interest: Current Clients</li> <li>- 1.8: Conflict of Interest: Current Clients: Specific Rules</li> <li>• The potential limitations on disclosure of information to the insured versus the insurer in the tripartite relationship</li> <li>• The effect of a reservation of rights letter on the disclosure of fee information</li> <li>• The effect of a carrier's demand for reimbursement on the disclosure of fee information</li> <li>• Confining your role to that of a defense lawyer while avoiding becoming the coverage lawyer for either the insured or the insurer</li> </ul> <b>Susan Page White, Esq., Dickstein Shapiro LLP, Los Angeles</b><br/> <b>Dale Hausman, Esq., Wiley Rein LLP, Washington, DC</b></p> <p>5:30 <b>Adjourn &amp; Networking Reception</b></p> |
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