



# NYSBA **CLE**

**Friday, June 18, 2010**  
*Albany*

**Friday, June 18, 2010**  
*Melville, LI*

**Friday, June 18, 2010**  
*Syracuse*

**Friday, June 25, 2010**  
*Buffalo*

**Friday, June 25, 2010**  
*New York City*



**INCLUDES**  
1.0 ethics credits  
See inside for  
more details.

## **2010 Insurance Coverage Update:** *Insurance Coverage Issues in the Commercial General Liability Policy - Emerging Issues for the Next Decade*

### **Register Now!**

**Save Money, and Guarantee  
Your Seat at the Program!!!**

Co-sponsored by the Torts, Insurance  
and Compensation Law Section and  
the Committee on Continuing Legal  
Education of the New York State Bar  
Association



# Agenda

8:30-9:00 a.m. REGISTRATION

9:00-9:10 INTRODUCTION

## PART I. OVERVIEW

9:10-10:00 a.m. OVERVIEW OF THE COMMERCIAL GENERAL LIABILITY POLICY

- The Insuring Agreement
- Trigger of Coverage
- Common Exclusions
- Who Is An Insured?
- Coverage "B"

Speakers:

**Mindy Sanchez, Esq.** (Albany)  
**Patti F. Potash, Esq.** (Melville)  
**James E. Reid, Esq.** (Syracuse)  
**Thomas P. Cunningham, Esq.** (Buffalo)  
**Alan C. Eagle, Esq.** (New York City)

## PART II. WHO IS AN INSURED?

10:00-10:50 "ARISING OUT OF" AND SIMILAR ADDITIONAL INSURED ISSUES FOLLOWING WORTH AND GARITO

- The Typical Additional Insured Endorsements
- The Written Contract Requirement
- "Arising out of" and Similar Issues
- Worth, Garito and Other Recent Case Law

Speakers:

**Mirna Martinez Santiago, Esq.** (Albany)  
**Joseph A. Oliva, Esq.** (Melville)  
**Robert J. Smith, Esq.** (Syracuse)  
**Michael Pilarz, Esq.** (Buffalo)  
**John D. McKenna, Esq.** (New York City)

10:50-11:00 BREAK

## PART III. "OTHER INSURANCE"

11:00-11:50 "OTHER INSURANCE" ISSUES IN THE WAKE OF *BP AND BOVIS V. GREAT AMERICAN*

- What Constitutes Other Insurance?
- The "Pro Rata" Other Insurance Provision
- The "Excess" Other Insurance Provision
- What Is a True Excess Policy?
- Reconciling the Other Insurance Provisions
- The Typical Situations
- Recent Developments

Speakers:

**James J. Gascon, Esq.** (Albany)  
**Glenn A. Kaminska, Esq.** (Melville)  
**Timothy J. Perry, Esq.** (Syracuse)  
**Michael T. Glascott, Esq.** (Buffalo)  
**Michael P. Kandler, Esq.** (New York City)

## PART IV. WHAT IS INSURED AND WHAT IS EXCLUDED?

11:50-12:15 COVERAGE FOR A CONSTRUCTION DEFECT CLAIM UNDER THE CGL POLICY: *GEORGE FULLER AND ITS RECENT PROGENY*

- The "Non-Occurrence" Rule
- Typical Situations
- The J(5) and J(6) Exclusions
- The "Your Product" Exclusion
- The "Your Work" Exclusion and Other Relevant Exclusions

Speakers:

**TBA** (Albany)  
**Andrew M. Premisler, Esq.** (Melville and New York City)  
**Anthony J. Piazza, Esq.** (Syracuse)  
**Kevin T. Merriman, Esq.** (Buffalo)

12:15-1:15 LUNCH

## PART V.

1:15-2:05

## RELINQUISHING RIGHTS AND DEFENSES

WAIVER AND ESTOPPEL IN THE ADDITIONAL INSURED ENDORSEMENT

- Common Law Waiver and Estoppel
- When Does Section 3420(d) Apply?
- The Timeliness of the Disclaimer
- Insurer v. Insurer Claims
- The Investigation
- Who Should the Insurer Send the Disclaimer To?

Speakers:

**TBA** (Albany)  
**Michael A. Miranda, Esq.** (Melville)  
**George Skandalis, Esq.** (Syracuse)  
**Timothy E. Delahunt, Esq.** (Buffalo)  
**Justin N. Kinney, Esq.** (New York City)

2:05-2:30

LATE NOTICE UNDER THE NEW AMENDMENTS TO SECTION 3420

- Overview of the New Amendments to Insurance Law § 3420
- Late Notice
- The Prejudice Requirement
- What is Prejudice?
- How Other Jurisdictions Interpret Prejudice Disclaimer Issues

Speakers:

**Paul J. Campito, Esq.** (Albany)  
**Elizabeth A. Fitzpatrick, Esq.** (Melville)  
**Anthony J. Piazza, Esq.** (Syracuse)  
**Adam C. Ferrandino, Esq.** (Buffalo)  
**Stephen Jacobs, Esq.** (New York City)

2:30-2:40

BREAK

## PART VI.

2:40-3:30

DAMAGES

EXTRACONTRACUAL DAMAGES UNDER "BAD FAITH" THEORIES

- Introduction: First-Party vs. Third-Party claims
- Emerging Issue: Consequential Damages under Bi-Economy
- Counsel Fees

Speakers:

**Carolyn B. George, Esq.** (Albany)  
**Dennis M. Wade, Esq.** (Melville and New York City)  
**Alan J. Pierce, Esq.** (Syracuse)  
**Katherine A. Fijal, Esq.** (Buffalo)

## PART VII.

3:30-4:20

ETHICS

ETHICAL CONSIDERATIONS FOR ASSIGNED COUNSEL

- Conflicts of Interest
- Selection of Counsel
- When Does the Insured Get to Choose Its Own Counsel?
- Counsel's Obligations
- Who Is the Client – The Insurer or The Insured?
- The Claims Professional's Responsibilities

Speakers:

**Mark S. Ochs, Esq.** (Albany)  
**Eileen E. Buholtz, Esq.** (Albany)  
**Joel M. Simon, Esq.** (Melville)  
**Jenna Klucsik, Esq.** (Syracuse)  
**Steven M. Zweig, Esq.** (Buffalo)  
**Scott A. Brody, Esq.** (New York City)

4:20-4:30

QUESTIONS AND ANSWERS

4:30 p.m.

ADJOURNMENT

## 7.0 TOTAL CREDITS

6.0 credits in areas of professional practice, 1.0 credit in ethics.

This **basic-level** course has been approved for MCLE credit in **New York** for all attorneys, including newly admitted (less than 24 months).

This program has also been approved for MCLE credit by the **State Bar of California** and the **Pennsylvania Continuing Legal Education Board** for **0.0** credit hours of substantive law and **0.0** credit hours of ethics. All inquiries regarding MCLE credits may be directed to **(518) 487-5606**.

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June 18, 2010  
**Albany**  
**New York State Nurses Association**  
11 Cornell Road  
Latham, NY 12110  
(518) 782-9400

Friday  
June 18, 2010  
**Long Island**  
**Melville Marriott**  
1350 Old Walt Whitman Road  
Melville, L.I., NY 11747  
(631) 423-1600

Friday  
June 18, 2010  
**Syracuse**  
**Renaissance Syracuse Hotel**  
701 East Genesee Street  
Syracuse, NY 13210  
(315) 479-7000

Friday  
June 25, 2010  
**Buffalo**  
**Holiday Inn Amherst**  
1881 Niagara Falls Blvd.  
Amherst, NY 14228  
(716) 691-8181

Friday  
June 25, 2010  
**New York City**  
**Radisson Martinique on Broadway**  
49 West 32nd Street  
New York, NY 10001  
(212) 736-3800

 See our Spring 2010 schedule online at [www.nysba.org/cle](http://www.nysba.org/cle)

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## NYSBA CLE *presents*

### 2010 Insurance Coverage Update: *Insurance Coverage Issues in the Commercial General Liability Policy - Emerging Issues for the Next Decade*



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