

American Conference Institute's Forum on

# Reinsurance Claims & Arbitration

*Advanced Strategies for Expediting, Minimizing and Resolving Claims Disputes*

Senior executives and in-house counsel from leading insurance and reinsurance companies, brokers and private practice attorneys from the top law firms will share their expertise on:

- Preparing for the reinsurance ramifications of subprime litigation and other market-moving claims trends
- Best practices for creating employee-proof notification and claims reporting procedures
- Real-life and practical solutions for settling reinsurance coverage claims without arbitration
- Cost-effective approaches for implementing truncated and other streamlined procedures in the dispute resolution process

**DON'T MISS OUR INTERACTIVE WORKSHOPS:**

- A** Master Class on Using Contract Language to Your Advantage in Resolving Reinsurance Claims
- B** Determining the Necessity and Conducting an Effective Reinsurance Audit

“I liked the interaction and the “personal” feel than other conferences  
– Vice President, Reinsurance Claims, Zurich North America

The program was well organized, informative, and accessible”  
– Deputy General Counsel, Office of Special Deputy

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## You know the challenges: Reinsurance Claims are tedious, time-consuming, paper intensive and expensive even in the best scenarios....

Benchmark your negotiation strategies and dispute resolution tactics to achieve cheaper, faster, and more efficient results at the ultimate reinsurance claims and arbitration event.

American Conference Institute's Advanced National Forum on **Reinsurance Claims & Arbitration**, will provide legal, tactical and practical strategies for handling today's most challenging claims disputes with minimum time and expense. You will gain up to the minute information on successful dispute resolution strategies that are sure to minimize bad blood between parties and preserve relationships necessary for ongoing profitability. Leading industry executives and seasoned private practice attorneys will share their expertise and unique perspectives on the most pressing issues, including:

- Analyzing bad faith claims practices from a reinsurance perspective
- Tips and techniques for successfully utilizing mediation
- Pros and cons of consolidating an arbitration
- Creating an effective reinsurance collection plan

Don't miss this unique opportunity to hear directly from top industry insiders, while participating in an advanced-level, information packed event that will give you valuable information to take back to the office and immediately use. We think you'll agree that it's time out of the office extremely well spent. Register now by calling 1-888-224-2480, by faxing your registration to 1-877-927-1563, or by visiting us online at [www.americanconference/reclaims](http://www.americanconference/reclaims).

### WHO YOU WILL MEET

- In-House Counsel for Insurers and Reinsurers
- Claims Counsel and Managers
- Insurance and Reinsurance Business Executives
- Arbitrators
- Reinsurance Brokers
- Private Practice Attorneys Specializing in Insurance and Reinsurance

### Expand Your Network

The complimentary ACI Alumni Program is designed to provide returning delegates with unique networking and learning opportunities beyond the scope of their conference experience.

Highlights include:

- Search for and contact fellow Alumni
- Post a question or look for answers in our Industry Forums
- Join a live Industry Chat in progress
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ALUMNI

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For more information about this program or our global portfolio of events, please contact:

*Wendy Tyler*

Group Leader & Business Development Executive  
American Conference Institute

Tel: 212-352-3220 x242

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[w.tyler@AmericanConference.com](mailto:w.tyler@AmericanConference.com)



### American Conference Institute:

The leading networking and information resource for counsel and senior executives.

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### Guaranteed Value Based on Comprehensive Research

ACI's highly trained team of attorney-producers are dedicated, full-time, to developing the content and scope of our conferences based on comprehensive research with you and others facing similar challenges. We speak your language, ensuring that our programs provide strategic, cutting edge guidance on practical issues.

### Unparalleled Learning and Networking

ACI understands that gaining perspectives from – and building relationships with – your fellow delegates during the breaks can be just as valuable as the structured conference sessions. ACI strives to make both the formal and informal aspects of your conference as productive as possible.

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8:00 Registration and Continental Breakfast 

9:00 Chairs' Opening Remarks

*Robert Tomilson, Esq.*  
Senior Counsel, CIGNA Corporation

*Lee Routledge*  
Senior Vice President, Claims, SCOR Reinsurance

9:15 Preparing for Emerging Global Reinsurance Exposures

*Peter R. Chaffetz*  
Partner, Clifford Chance US LLP

- The impact of the subprime market financial crisis on the reinsurance industry
  - Subprime litigation: what to expect when you're expecting?
  - Notifications have been received: adequately preparing for what's ahead
  - Significant areas of exposure and policies at risk
  - Global warming: Coverage issues and available exclusions
- Severe weather trends and natural disasters: what the should reinsurance industry should do now to prepare for the next big one?
- Going green: who will be exposed to liability?
  - Architecture and other professional liability claims: construction defects in green buildings
  - D&O liability
- The next pandemic
  - Forecast for regulatory changes to mortality tables
  - When and how these changes will affect life reinsurance

10:15 Long-Tail and Large-Scale Claims: The Latest Regulatory and Case Law Developments

*Lee Routledge*  
Senior Vice President Claims, SCOR Reinsurance Company

*Stephen W. Schwab*  
Partner & Co-Coordinator, Global Insurance Practice Steering Committee, DLA Piper US LLP

- Asbestos and Environmental Claims
  - Recent settlements and case law affecting asbestos and mesothelioma litigation
  - International developments involving asbestos
  - Lead paint: recent activity in Rhode Island
  - Other chemical exposure cases: benzene, manganese & silica
- WTC
  - Allocation and aggregation determinations
  - *Port Authority* case: how will this affect reinsurance
- Hurricanes Katrina & Rita
  - Bringing a case to closure: best options and practical solutions
  - Recent litigation on flood exclusion clauses
- Clergy abuse
  - Extension of the SOL for claims and the affect on reinsurance
  - Current cases and settlements
- Construction defects
  - Existence of an occurrence
  - Triggers of coverage
  - Utilizing exclusions

11:15 Coffee Break 

11:30 Minimizing Disputes between Cedents and Reinsurers: Dispute Hotspots and Resolution Strategies

*Beverly Sneddon, JD*  
AVP, Reinsurance Claims & Legal  
Zurich North America Commercial

*Andrea J. Morgan, CPU, ARe, AU*  
Senior Vice President, Head of Global/National Casualty Claims  
Swiss Re

*Larry P. Schiffer*  
Partner, Dewey & LeBoeuf LLP

*Christine Marino*  
Vice President, Client Support Services, Domestic Guy Carpenter

- Evaluating the nature of various coverage disputes between reinsurers and cedents
  - Late notice
  - Existing exclusions in the reinsurance contract
  - Exclusions in the insurance policy
  - Occurrences: aggregation issues
  - Non-concurrent contract language
  - Access to records
- Reviewing contract clauses: the impact on claims handling
- Developing and implementing policies and procedures for efficient reporting
- Effectively reducing issues with late notification and avoiding prejudice to the reinsurer
- Timelines and notice clauses: appropriate triggers for notification

12:40 Networking Lunch for Speakers and Delegates 

2:00 International and Cross-Border Reinsurance Claims: Strategies for Minimizing Disputes

*Patrick J. Carty*  
Senior Vice President and Lead Counsel, Life Reinsurance  
Swiss Re Life & Health America Inc.

*Alexander F. Verheugt, LL.M, AIC*  
Deputy Claims Counsel, Hannover Re

*Peter Dunlop*  
Counsel, Attride-Stirling & Woloniecki (Bermuda)

- Navigating trouble spots in international claims handling
  - Differing levels of reporting
  - Obtaining proof of losses in different languages
  - Dealing with cultural barriers
  - Determining when enough is enough to pay the claim?
- How disputes are generally resolved around the globe: Asia, Europe, Canada
- Getting specific information without violating privacy and other restrictions

3:10 Refreshment Break

3:25 Preventing and Managing Bad Faith Allegations in a Reinsurance Context

*Urban Friesz*  
Assistant Vice President, Treaty Accounting & Claims, Collins

*Andrew S. Boris*  
Partner, Tressler, Soderstrom, Maloney & Priess, LLP

*Rick Rosenblum*  
Partner, Akin Gump Strauss Hauer & Feld LLP

- Protecting against fraudulent, collusive or other potential bad faith behaviors
- Failure to settle/refusal to defend: how these cases could severely affect your reserves
- Duties owed to the cedent by the reinsurer to avoid bad faith? Available damages?
- Impact of follow the fortune clauses on bad faith allegations
- XPL and ECO: distinctions and application
  - Contract working to be aware of

- Failure to settle with limits: prevention and allegations
- Bad faith claims handling – when allegation will arise
- Late notice and bad faith: standards
- Late or stalled payments to the cedent:
  - When is this considered bad faith?
  - Viable defenses
- Cedent bad faith in claims handling and how it impacts reinsurer
- Recent examples of reinsurer bad faith
- Facts relied upon when bad faith is alleged against the cedent, against reinsurer?
- Recent enactments of bad faith statutes that could impact your treaties: emphasis on Washington, Minnesota, & Maryland
- Punitive damages:
  - Availability of coverage for punitive damages
  - Contractual protections to include in your agreements
  - Who has power to award?
  - Awards of punitive damages in arbitration
- Arbitration vs. litigation vs. settlement

4:30 Conference Adjourns to Day Two

## SEPTEMBER 25, 2008

7:30 Continental Breakfast 

8:00 Chairs' Recap and Opening Remarks

8:15 The Reinsurance Dispute Hypothetical: A Closer Look at Settling Disputes Around the Boardroom Table

*Arthur Gang*  
Senior Vice President and Associate General Counsel  
Partner Reinsurance Company of the U.S.

*Laird R. Criner*  
Managing Director, Head of Global Claims Consulting  
Guy Carpenter

### Moderator:

*James Veach*  
Partner, Mound Cotton Wollan & Greengrass

During this interactive session, industry leaders from all sides of a reinsurance dispute will be presented with a hypothetical situation and provide an in-depth discussion on the likely course of resolution. With ample time for questions, this session is one you won't want to miss.

9:45 Coffee Break 

10:00 Cost-Centric Approaches to Arbitration, Mediation and Other ADR Options

*Robert Tomilson, Esq.*  
Senior Counsel, CIGNA Corporation

*William O'Neill*  
Partner, Crowell & Moring LLP

- Implementing truncated procedures into the dispute resolution process
  - Advantages of short form proceedings
    - Avoiding favoritism in short form proceedings
    - Ensuring fairness for the reinsurer
  - Determining the appropriate triggers
  - Proof for the non-believers: real life success stories
- Projecting dispute resolution costs
- Advantages / disadvantages to submitting matters on the papers for specific types of disputes
- When to consider mediation
- Situations in which litigation will be more cost-effective

- How to assess and evaluate corporate priorities in making decision on best resolution route
- Including party consultations prior to arbitration to expedite resolution
- Special approaches for run-off business
- Overcoming challenges associated with ancient agreements and old arbitration clauses
- Tips and techniques for successfully mediating a reinsurance dispute
- Using the organizational meeting to reduce costs down the line: what to include

11:00 Creating the Arbitration Framework

*Thomas P. Stillman*  
ARIAS – US Certified Arbitrator  
(Former Senior Vice President and Deputy General Counsel of CNA Insurance)

*Michael Goldstein*  
Partner, Mound, Cotton, Wollan & Greengrass

*Kevin J. Tierney*  
ARIAS-US Mediator and Certified Arbitrator  
(Former Senior Vice President and General Counsel UNUM Corp.)

*Peter Dunlop*  
Counsel, Attridge-Stirling & Woloniecki (Bermuda)

### The Panel

- How new ARIAS U.S. certification requirements will impact your choices
  - Pros and cons of going with an ARIAS certified arbitrator
- What qualifications for to set for parties
- Determining neutrality
  - Disclosure of past contacts: what to ask for
  - How to evaluate and flag evidence of partiality
- Choosing the best arbitrator for an international arbitration
- How experienced do you want the arbitrators?
- Size of panel – when to go with one vs. 3 or more
- When and how to challenge arbitrator
- Dealing with a non-responsive arbitration panel: Techniques to maintain control

### Setting the Scope

- Utility of arbitration guidelines: AAA, RAA, CIDRA
  - Situations and circumstances where other guidelines could be utilized for efficient resolution
- Advantages for adopting aspects of US vs. UK vs. Bermuda arbitration proceedings
- Rules of evidence that should apply
- Setting the scope of arbitrator powers – what to consider when determining
- How much control is too much and what could come back to bite you?

### Discovery Limits

- How to keep discovery from spiraling out of control
- Advantages/disadvantages of agreeing to specific facts
- Incorporating scope of discovery into position statement
- When to go to panel over discovery issues
- Making or dealing with claims of privilege in the arbitration context – special considerations

12:15 Networking Lunch for Speakers and Delegates 

1:30 Consolidation of Arbitrations: the Good, the Bad & the Ugly

*Susan E. Grondine*  
General Counsel, Cavell America, Inc.

*Mitchell S. King*  
Partner & Chair, Insurance & Reinsurance Practice Group  
Prince Lobel Glosky & Tye LLP

- Determining when to consolidate?
  - Situations that warrant consolidation
  - Advantages and disadvantages for both parties
- Selecting appropriate arbitrators when facing consolidation depending on the side you sit on
- What to do when you have multiple reinsurers? Multiple claims? Multiple contracts?
- Valid objections to consolidation: Are the reinsurers' hands tied by the cedent's choice to consolidate?
- Position of the courts in reviewing consolidation issues
  - Circuit court split: Hands off approach v. appointment of arbitration panel
  - How do you resolve the issue of consolidation when the court refuses to get involved?
- How arbitrators are determining whether to consolidate?
  - What is required to make your case to the arbitrators
  - What the arbitrators look at when making their decision

2:30 Refreshment Break

2:45 Developing and Implementing Practical Collection and Recovery Strategies

*Patricia J. Page*  
Sr. Vice President, ACE Reinsurance Services

*Clive O'Connell*  
Reinsurance and International Risk Team  
Barlow Lyde & Gilbert LLP

- Tips and techniques for expediting the collection process
- Identifying and avoiding delay tactics
- Follow the fortune doctrine:

- What are the limits?
- When is it appropriate to fight back?
- Tailoring your collection strategy to the type of case: transactional v. mass tort claim
- Managing the collection of large cat claims
- Insolvency: It's been quiet, but it's making a come back
  - What to do when the reinsurer is facing insolvency?
- Factors to consider when recovering from foreign entities

3:45 Enforcing and Challenging Arbitration Remedies

*Eridania Perez*  
Partner, Dewey & LeBoeuf LLP

*Evan L. Smoak*  
Partner, Barger & Wolen LLP

- Relevant statutes/processes
- Enforcement of arbitral awards in foreign jurisdictions
- International vs. domestic grounds for refusal
- When to challenge awards
- Requesting adjustment of arbitration award
- Selecting venue for litigation challenge
- When to seek rescission or declaratory awards
- Arguments for and against costs and attorney's fees

4:45 Conference Concludes

“Comments by speakers and audience participation was very well articulated and appropriate on issues for the current market.”

– Assistant Vice President, D. W. Van Dyke & Co., Inc.

PRE-CONFERENCE WORKSHOP  
September 23, 2008 | 2:00 – 5:00 p.m.

**A** Master Class on Using Contract Language to Your Advantage in Resolving Reinsurance Claims

*Robert Redpath*  
Senior Vice President and General Counsel  
Clarendon Insurance Group, Inc

*Roland C. Goss*  
Partner, Jorden Burt, LLP

In today's evolving reinsurance industry, having airtight contracts in place is more important than ever before especially when it comes to claims handling and dispute resolution. However, often times during contract negotiation, the intent of the parties gets lost and it isn't until an actual dispute arises that the parties realize that the agreement is unclear. Attend this workshop and find out how to utilize ambiguities and uncertainties in contract language to leverage your claims and win your most difficult and complex reinsurance disputes.

- Interpreting definitions
- Strategies for defining "occurrence" when agreement is unclear
- Examining notice of loss and related clauses
- Claims cooperation: are you losing control?
- Obtaining or blocking access to records, inspections and claim audits
- Determining underwriting intent: Follow the Settlement, Follow the Fortune and original condition provisions
- Declaratory judgment expenses: who pays when contract doesn't specify?
- How to resolve disputes arising from arbitration clauses
- Addressing disclosure and evidentiary matter in arbitration agreements
- Attorney/Client privilege: what should apply in arbitration?
- Confirming or objecting to final awards

POST-CONFERENCE WORKSHOP  
September 26, 2008 | 9:00 a.m. – 12:00 p.m.

**B** Determining the Necessity and Conducting an Effective Reinsurance Audit

*Speakers TBA*

During this interactive workshop, receive in-depth training on how to conduct a detailed and comprehensive reinsurance audit. You will learn how to improve the process from both the standpoint of the ceding company and the reinsurer, as well as identify issues and concerns that can impact your business. Topics will include:

- Influence claims-handling decisions, as most reinsurance contracts have a Right to Associate clause
- Strengthen business relationships and improve coordination and communication
- Assess the claim department for technical claim-handling and management capabilities, practices, procedures and results
- Ensure full disclosure and honesty as well as overall contract compliance
- Set reserves with information obtained from the audit
- Accurately price contracts and address important terms, conditions and exclusions with an audit before the contract is in effect
- Conduct pre-contract due diligence examinations to determine whether you should be bound by decisions and actions of claim-handlers
- Evaluate reserve adequacy, influence litigation and claim management decisions, and ensure proper communications and full disclosure by conducting audits after the contract has expired

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# Reinsurance Claims & Arbitration

*Advanced Strategies for Expediting, Minimizing and Resolving Claims Disputes*

**A** Master Class on Using Contract Language to Your Advantage in Resolving Reinsurance Claims

SEPTEMBER 23, 2008

**B** Determining the Necessity and Conducting an Effective Reinsurance Audit

SEPTEMBER 26, 2008

## REGISTRATION FORM

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<input type="checkbox"/> Conference Only	\$1895	\$1995	\$2195
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**American Conference Institute** is pleased to offer our delegates a limited number of hotel rooms at a preferential rate. Please contact the hotel directly and mention the "ACI REINSURANCE CLAIMS" conference to receive this rate:

**VENUE:** The Carlton on Madison Avenue  
**ADDRESS:** 88 Madison Avenue, New York, NY, 10016  
**RESERVATIONS:** 800-601-8500

### Registration Fee

The fee includes the conference, all program materials, continental breakfasts, lunches, refreshments and complimentary membership of the ACI Alumni program

### Payment Policy

Payment must be received in full by the conference date. All discounts will be applied to the Conference Only fee (excluding add-ons), cannot be combined with any other offer, and must be paid in full at time of order. Group discounts available to individuals employed by the same organization.

### Cancellation and Refund Policy

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