



# 2020 Annual Meeting

May 6-8, 2020 | Chicago Athletic Association | Chicago, IL

## Registration Form

### Fellow Information

Full Name

Firm

First Name on Badge/Nickname

Address

City

State

Zip

Phone

Email

☐ I require special accommodations to participate.  
Please attach a description of your needs.

Please indicate any dietary restrictions

☐ Vegetarian ☐ Kosher ☐ Other \_\_\_\_\_

Please list states and bar numbers for CLE credit:

### Guest Information

Full Name

First Name on Badge/Nickname

Email

☐ I require special accommodations to participate.  
Please attach a description of your needs.

Please indicate any dietary restrictions

☐ Vegetarian ☐ Kosher ☐ Other \_\_\_\_\_

### Payment Information

☐ Check (payable to ACCC) ☐ MasterCard ☐ VISA ☐ American Express

Card Number

Exp. Date

Name on Card

Security Code

Signature

### Fellow Registration Fees

Breakfast, lunch, receptions, and dinner are included in the registration fee.

By April 10 April 11 & after  
Fellow ..... ☐ \$575..... ☐ \$625

### Fellow Events (please check all that you will be attending)

Wednesday, May 6  
☐ Welcome Reception

Thursday, May 7  
☐ Breakfast  
☐ Sessions  
☐ Lunch  
☐ Reception & Dinner

Friday, May 8  
☐ Breakfast  
☐ Sessions

### Guest Event Fee (spouses, significant others, family)

Guest Event Fee ..... \$250\*  
\*includes all meal functions

### Guest Events (please check all that you will be attending)

Wednesday, May 6  
☐ Welcome Reception

Thursday, May 7  
☐ Breakfast  
☐ Reception & Dinner

Friday, May 8  
☐ Breakfast

### Total Fees (U.S. Dollars)

Fellow Registration Fee ..... \$ \_\_\_\_\_  
Guest Event Fee ..... \$ \_\_\_\_\_  
Total ..... \$ \_\_\_\_\_

#### Cancellation Policy

Cancellations received prior to 5:00 pm ET on Friday, April 24 will be refunded, less a 25% processing fee. No refunds will be given for cancellations received after this deadline.

#### Return your completed form with payment to:

American College of Coverage Counsel (ACCC)  
2800 Eisenhower Avenue Suite 210  
Alexandria, VA 22314  
F: 703-683-5561 | E: [info@americancollegecoverage.org](mailto:info@americancollegecoverage.org)

#### Chicago Athletic Association

12 South Michigan Avenue, Chicago, IL 60603 | 844-312-2221  
Reserve a room in our room block on at <https://www.hyatt.com/en-US/group-booking/CHIB/G-ACCE> or call 844-312-2221.  
Group code is G-ACCE.

Rate: \$275/night | Deadline: April 14, 2020 at 5 pm CT







AMERICAN COLLEGE  
OF COVERAGE COUNSEL

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# 2020 Annual Meeting

May 6-8, 2020 | Chicago Athletic Association | Chicago, IL





## Wednesday, May 6, 2020

6:30 – 8:00 pm **Welcome Reception, Sponsored by KCIC** (The Game Room)

## Thursday, May 7, 2020 (Sessions are in Madison Ballroom)

8:00 – 9:00 am **Breakfast Buffet** (White City Ballroom)

9:00 – 9:15 am **Welcome Remarks**

**Speakers:** **Michael Aylward**, Morrison Mahoney; ACCC President  
**Angela R. Elbert**, Neal, Gerber & Eisenberg; 2019 Annual Meeting Co-Chair  
**Robert A. Kole**, Choate Hall & Stewart; 2019 Annual Meeting Co-Chair

9:15 – 10:00 am **The Impact of Delaware's Sudden Dominance in D&O Coverage Disputes**

**Speakers:** **Michael Manire**, Manire Galla Curley LLP  
**Leslie Ahari**, Clyde & Co.  
**Seth Lamden**, Neal, Gerber & Eisenberg LLP  
**Koorosh Talieh**, Perkins Coie LLP

*DE Superior ct. judges have recently, and controversially, applied DE insurance law to the construction of D&O policies issued to DE-incorporated insureds located in other states. Given the number of D&O insureds that are incorporated in DE, the impact will be significant. Recent application of DE law has already resulted in several equally controversial merits decisions: finding coverage for appraisal actions; applying an extraordinarily narrow standard for relating claims; and finding a fraud exclusion doesn't apply if a claim is settled after a trial court finding of fraud.*

10:00 – 10:45 am **Duty to Defend Bad Faith Issues**

**Speakers:** **Robert Allen**, The Allen Law Group  
**Dan Litchfield**, Litchfield Cavo LLP  
**Dave Godwin**, Squire Patton Boggs (US) LLP  
**Linda Dedman**, Dedman Law, PLLC

*An insurer's duty to defend its insured is a primary benefit of many liability policies. The consequences of a erroneous failure to defend differ greatly between the jurisdictions. This panel will explore the extra contractual and bad faith issues associated with an insurer's duty to defend and discuss the different rules in the various jurisdictions.*

10:45 – 11:00 am **Break**

11:00 – 11:45 am **Looking for IP Coverage: What's In or Out for CGL, Excess & Specialty Policies?**

**Speakers:** **Michael Hamilton**, Goldberg Segalla  
**Marcus Snowden**, Snowden Law P.C.  
**Tyler Gerking**, Farella Braun + Martel LLP  
**Joann Lytle**, McCarter & English

*The presenters will discuss the current state of coverage under typical CGL policies for IP disputes. Specifically, how courts have recently construed advertising injury coverage for copyright, trademark, patent, service mark and trade dress infringement claims. This includes whether insurance coverage is afforded for IP disputes in the context of unfair competition and trade disparagement claims and how cross-border disputes in the global economy may mean looking elsewhere for the coverage.*

*The proliferation of IP-related risks has prompted some US and foreign market insurers to revise their CGL policies to limit coverage for many IP claims. Some now contain broad IP exclusions. The panelists will address this recent trend, what is standard in the insurance market today and potential for coverage in policies underwritten in Canadian and other foreign markets.*

*The presentation will also cover how IP-specific specialty policies, which vary widely, are now available to address a broader array of IP-related risks than those covered by modern CGL policies, including (a) "infringement liability policies", covering third-party patent, trademark, copyright, or other infringement claims against the policyholder or in some instances, contractual IP exposure for claims against the policyholder's licensees and customers, and (b) "abatement or enforcement" coverage designed for Companies which contemplate protecting their intellectual property rights against potential infringers.*

*Lastly, the panel will identify and discuss what other types of policies may provide coverage for certain IP exposures arising from an organization's e-commerce activities and business operations, including media liability insurance, cyber liability insurance, technology E&O policies and R&W insurance.*

11:45 – 12:30 pm **Sorting Out the Rules & Responsibilities of Primary and Excess Carriers in the Defense of Bet the Company's Litigation**

**Speakers:** **Michael Huddleston**, Munsch Hardt Kopf & Harr, PC  
**Ernest Martin**, Haynes & Boone, LLP  
**Neil Rambin**, Drinker Biddle  
**Rhonda Tobin**, Robinson & Cole LLP

*Where claims potentially vastly exceed policy limits, the handling of the defense becomes an issue for the primary carrier, the excess carrier and the policyholder, and presents a point of exploitation for the claimant's coverage counsel. The panel will discuss challenges and claims and strategies for dealing with inadequacies in defense counsel provided by the primary carrier in such cases. The panel will consider the implications of various options for dealing with such "bet the company" litigation, including demands from the policyholder and excess carrier for the selection of appropriate counsel and the issue of who pays for and controls the defense. Additional discussion will address the various approaches excess carriers may take, such as the appointment and use of monitoring counsel, ethical and estoppel issues involved with dual use of such counsel on coverage and liability/defense, privilege issues involved with monitoring counsel that do not appear as defense counsel. Next, the panel will consider the*

# Program Schedule

as of February 3, 2020. For the most up-to-date information, visit [americancollegedecorations.org](http://americancollegedecorations.org)

issues that can arise when the excess carrier exercises its right to associate/participate in the defense of the case, such as disputes arise over who controls the defense, potential privilege issues, waiver and estoppel. Finally, the panel will consider settlement dynamics in the context of multi-carrier cases, including to what extent excess carriers can enforce through equitable subrogation or direct duty the duty to settle on the part of the primary carrier and the extent to which the duty to settle can be invoked and called into play as to excess carriers. The panelists will address the interests of the policyholder, the primary carrier, the excess carrier and the claimant.

12:30 – 1:30 pm **Lunch & Annual Business Meeting** (White City Ballroom)

1:30 – 2:00 pm **Extended Work Break**

1:45 – 2:00 pm **Special Feature: Small group tours of the Chicago Athletic Association**

2:00 – 2:45 pm **10 Cases in 45 Minutes**

Speakers: **Robert Chesler**, Anderson Kill, P.C.  
**Suzanne Midliffe**, Coughlin Duffy LLP  
**Anthony Levin**, Shartsis Friese LLP

The panel will discuss the "Top Ten" insurance coverage cases over the past year from a broad spectrum of areas.

2:45 – 3:30 pm **First-Party Insurance Disputes, Alternative Dispute Resolution Mechanism and Issues with Umpires and Appraisers**

Speakers: **Mark Boyle**, Boyle, Leonard & Anderson PA  
**Christine Haskett**, Covington & Burling LLP  
**Melissa Sims**, Berk, Merchant & Sims PLC  
**Wayne Taylor**, Mozley, Finlayson & Loggins, LLP

Session description coming soon.

3:30 – 3:45 pm **Break**

3:45 – 4:30 pm **Ethical Issues that May Arise in Multi-party Representations**

Speakers: **Tracy Alan Saxe**, Saxe Doernberger & Vita (Moderator)  
**Tim Burns**, Perkins Coie  
**Laura Hanson**, Meagher & Geer  
**Rick Hammond**, HeplerBroom, LLC

The role of coverage counsel when representing multiple parties in a coverage action can present unique ethical and business challenges that are not always fully or clearly addressed by the Rules of Professional Conduct. In multi-party litigation, both policyholder and insurer counsel may represent two or more clients who are not directly adverse, but whose interests may diverge separate from any potential coverage dispute or litigation. During representation solely in the coverage action, coverage counsel can become privy to relevant information that neither client would reveal to the other. The panelists will share their experiences, and lead a discussion on best practices and practical solutions to manage and resolve these potentially thorny and complex issues. A single lawyer advising both clients may incidentally reveal or rely upon otherwise confidential communications learned from discussions with liability counsel.

6:00 – 6:30 pm **New Fellows & First Time Attendees Reception** (White City Foyer)

6:30 – 7:30 pm **General Reception, Sponsored by BDO** (White City Foyer & Ballroom)

7:30 – 9:00 pm **Dinner**

Presentation of the Thomas F. Segalla Service Award  
Recognition of New Fellows  
Recognition of winners of the Law School Practical Skills Writing Competition

**Friday, May 8, 2020** (sessions are in Madison Ballroom)

7:30 – 8:30 am **Breakfast Buffet** (White City Ballroom)

8:30 – 9:15 am **Is a Good Offense the Best Defense?**

Speakers: **Lyndon Bittle**, Carrington Coleman  
**Marion Adler**, Adler Law Practice, LLC  
**Laura Foggan**, Crowell & Moring LLP

Policyholders who are entitled to a defense from their insurers often are confronted with a situation where the best defense may include a good offense – in the form, e.g., of counterclaims, cross-claims, third-party claims, offensive claims in another forum (e.g. administrative challenge to a patent), or even an anticipatory suit against the claimant. Some insurers recognize "affirmative" claims can reduce or eliminate the insured's exposure for the covered claim, and therefore agree to treat those affirmative claims as within the scope of their defense obligation. Other insurers insist they are not obligated to fund affirmative claims. The courts are split on whether and under what circumstances such a duty might arise. The panel will survey the case law and principles regarding these issues.

9:15 – 10:00 am **Related Acts & Interrelated Wrongful Acts – Six Degrees of Separation**

Speakers: **Matt Jacobs**, Jones Day  
**Leah N. Engelhardt**, Chaffe McCall, L.L.P.  
**Bryan Weiss**, Murchison & Cumming LLP  
**Paula Litt**, Honigman LLP

(CLE credit is pending. CLE forms will be available at the conference.)

Issues surrounding "related acts," and "Interrelated Wrongful Acts," as those provisions appear primarily in D&O policies, are being litigated in courts throughout the country. Insurers often rely upon these concepts to avoid coverage for claims made against their insureds during a policy period if the insurer can point to something (an act) that took place prior to the policy period and to which the insurer can point as being the genesis of the eventual claim. Many D&O policies will "push back" a claim made during a second consecutive policy period and will "deem" the claim to have been made during a prior policy period -- issued by another insurer -- by relying upon the concept of a "related" act. In this way, an insurer can seek to avoid paying the claim. Policyholders insist that "related acts" provisions are only meant to assure that two claims arising from the same circumstances cannot be submitted for coverage during the same policy period -- thereby potentially triggering two policy limits. But because these provisions are often vaguely defined, if defined at all, courts must struggle with an intensive factual analysis to determine if an act taking place prior to the policy period in which a claim is made against the insured was "related" or involved "Interrelated Wrongful Acts," which would require that the claim be deemed to have been made against the insured during a prior policy period and before the inception of the policy that the insured is pursuing for coverage.

10:00 – 10:15 am **Break**

10:15 – 11:00 am **Privacy Reigns Supreme: Coverage Implications of the New Regime of Personal Information Protection (CCPA, BIPA & More!)**

Speakers: **Jim Davis**, Perkins Coie LLP  
**Hope Nightingale**, Litchfield Cavo LLP

As the pendulum swings towards maximum protection of personal information in statutory schemes, coverage litigation over privacy class actions is rapidly emerging. The recently enacted California Consumer Privacy Act and the Illinois Biometric Information Privacy Act, plus other state laws on the way, are dramatically expanding privacy protections and rights to bring causes of action. These coverage disputes are raising questions under cyber, general liability, employer practices liability, directors & officers, and professional liability policies.

11:00 – 11:45 am **Settlement & Assignment Following Breach of the Duty to Defend**

Speakers: **William Ford**, Collins | Ford LLP (Moderator)  
**Wendy Feng**, Covington & Burling LLP  
**Jean Lawler**, Lawler ADR Services, LLC  
**Ellen Van Meir**, Thompson Coe

Where an insurer breaches the duty to defend and the insured enters into a reasonable and non-collusive settlement, must the settlement be "covered" or is "coverage" meaningless in the context of the amount of the post-breach settlement that equates with and constitutes damages.

## Hotel Information

### CHICAGO ATHLETIC ASSOCIATION

12 South Michigan Avenue  
Chicago, IL 60603 | TEL: 312-940-3552

We have secured a group rate for sleeping rooms for May 6 & 7 at \$275/night, plus tax & Founders Fee (e.g., resort fee). The group rate expires on April 14, 2020 at 5 pm CT. Click [here](#) or call 844-312-2221 to make your room reservation. Group Code: G-ACCE. The last day to make reservations under the room block is Wednesday, April 14, 2020 at 5 pm CT (If you wish to extend your stay, please call the hotel's reservation line for assistance.)

Check in is 3:00 pm. Check out is 12:00 pm.

Valet parking is available at the 71 East Madison entrance. Overnight parking is \$69 with in-and-out privileges.

## Travel Information

### Public Transportation

**From O'Hare:** Take the Blue Line train heading toward Forest Park to the Washington stop in the Chicago Loop. From street level, head east on Washington three blocks toward Millennium Park. You'll pass under the "L" and then make a right on Michigan Avenue across from the park. You'll see the steel and glass awning above the hotel entrance just past Madison Avenue.

**From Midway:** Take the Orange Line train towards the Loop and get off at the Washington/Wabash stop. Proceed one block east on Madison towards Michigan Avenue. The hotel's Madison entrance is on 71 East Madison or turn the corner and enter on Michigan Avenue.

## Dress Code

Dress code is business casual for the conference and Wednesday welcome reception. The dress code for the Thursday reception and dinner is a suit and tie for gentleman and cocktail dress for ladies.