



THEMIS Webinar
September 14, 2021
1-3 PM ET

BACK IN BUSINESS: Litigation in the Post-COVID World

Summary/Description:

No industry, profession, or individual was spared from the impacts of COVID-19. From executive orders, shuttered businesses, and what we now call the “new” normal, one common thread was visible – we were all vulnerable and had to pivot from the “old” normal just to stay afloat. As Americans, we are resilient, and as 2021 arrives, those lessons learned from 2020 are teed up for discussion. One of the most impacted industries was insurance. Response to the pandemic brought an unprecedented number of virtual events that spanned from inspections to legal proceedings including depositions, mediations, and trials. We will explore the pros and cons of Zoom and its effects on the industry. New updates in the litigation of the Berkely deck collapse as well as the recent Surfside collapse, will influence what “Back to Normal” looks like. Rather than playing defense, this panel explores playing offense with emerging trends related to the issues we are living and adapting through as the new normal, and how we can be ready for whatever it is that comes next. The discussion exploits lessons learned with foresight in anticipation of what’s to come, whether another pandemic, collapse, or something else yet to be known.

Presenters:

James Orland, Managing Partner with Orland Law Group

Rick Arneal, Partner with Van De Poel, Levy, Thomas, Arneal LLP

Charity A. Heidenthal, Shareholder with Zarwin Baum DeVito Kaplan Schaer Toddy P.C.

Peri Rose Huston-Miller, Associate with Baumann, Gant & Keeley, P.A.

James Liskow, Partner with DeCaro, Doran, Siciliano, Gallagher & DeBlasis, LLP

James Martin, Shareholder with Mullen Holland & Cooper, P.A.

Richard L. Righi, Founding Partner with Righi Fitch Law Group

Paul E. Sperry, Partner with Copeland Stair Kingma & Lovell

Donna Friis, Senior Project Engineer with Envista Forensics

Target Audience:

The target audience includes all parties involved in claims and litigation, given everyone was directly impacted by the ongoing COVID-19 pandemic, including but not limited to: risk managers, underwriters, claims adjusters, claims managers, examiners, attorneys, and experts.

Course Length: 120 Minutes

Outline with Time Increments:

- I. Overview of the ultimate disruptor of 2020 – **7 minutes**
 - a. Indirect/direct effects on the insurance industry
 - b. Happenings in litigation
 - c. Hindsight is 20:20 – foresight with future handlings and planning for future disruptor(s)

- II. Brief Jurisdictional Updates, New Legislation and Case Law– **35 minutes**
 - a. Arizona (Recent legislation and /or Case Law Development)
 - b. California (Recent legislation and /or Case Law Development)
 - c. District of Columbia
 - i. Where notice is an essential element of a claim the doctrine of *res ipsa loquitor* cannot apply
 - d. Florida (Recent legislation and /or Case Law Development)
 - e. Maryland (Recent legislation and /or Case Law Development)
 - i. Maryland adopts Daubert
 - ii. Periods of time where insured was uninsured can be used against insured to calculate time on risk
 - f. New Jersey (Recent legislation and /or Case Law Development)
 - g. North and South Carolina
 - i. Limitation of liability provision to cut exposure down from six figures to \$25,000
 - ii. Summary judgment on amalgamation claim on behalf of engineer whose subsidiary did the work
 - iii. Limiting third-party claims to equitable indemnity and limiting claims to the gross negligence standard pursuant to the statute of repose
 - h. Pennsylvania (Recent legislation and /or Case Law Development)
 - i. Virginia
 - i. Equipment incorporated into a building is not ordinary building material for purposes of repose

- III. What COVID Left Behind (Current state of the Insurance Industry: the “new” normal in 2021 Answer through Lessons Learned.) – **35 minutes**
 - a. Is Zoom here to Stay
 - b. Pitfalls of depositions by Zoom
 - i. Pros, cons
 - ii. Legality
 - iii. Complications
 - c. How effective are zoom mediations and trials
 - i. Determining who bears the burden associated with a loss or losses
 - ii. Determining who bears the ultimate responsibility
 - iii. Force Majeure Clauses
 - d. Legal strategies with the pandemic and the return to normalcy

- IV. Knee Jerk Reactions to Catastrophic Incidents – **35 minutes**
 - a. Lasting Effect of Surfside Collapse
 - i. Building Inspections and Certifications
 - ii. Property Condition Assessments
 - iii. Liability Transfer
 - iv. Associated Costs
 - b. Berkley Deck Collapse

- i. Litigation Update
 - ii. Outfall
 - c. Effect on the Insurance Industry
 - i. Underwriting Inspection requirements
 - ii. a jury verdict post-collapse that forecasts potential increased payouts by juries
- V. Conclusions and Takeaways – **8 minutes**
 - a. Preparation for the future
 - b. Foresight rather than hindsight