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CONTINUING EDUCATION

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OUR MISSION

Callahan & Fusco, LLC is dedicated to providing our clients with the current topics that matter most.

We strive to give you and your team educated and knowledgeable content on a number of subjects that affect you directly throughout the insurance industry. Whether it's in the classroom or through the web, Callahan & Fusco can fulfill your Continuing Education needs.

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Roseland, NJ 07068

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40 Exchange Place, 18th Floor
New York, NY 10005

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Buffalo, NY 14202

PENNSYLVANIA

100 N. 18th Street, Suite 300
Philadelphia, PA 19103

CONNECTICUT

100 Pearl Street, 14th Floor
Hartford, CT 06103

GEORGIA

160 Clairmont Avenue, Suite 340
Decatur, GA 30030

MISSISSIPPI

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Hattiesburg, MS 39402

FLORIDA

200 SW 1st Avenue, Suite 840
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Tampa, FL 33609

MASSACHUSETTS

100 Cambridge Street, 14th Floor
Boston, MA 02114

225 Cedar Hill Street, Suite 200
Marlborough, MA 01752

OUR PROGRAMS

All courses are available in both classroom and online settings.

Accident Response and Reconstruction (1 Hour)

Assuming The Risk Of Attending A Sporting Event: The "Baseball" Rule (1 Hour)

Bowling Alley Liability: How Slippery Can the Slope Be? (1 Hour)

Community Associations: Limiting Liability by Looking for the Fine Print (1 Hour)

Cyber Liability: Remediating a Cyber Attack (2 Hours)

Defending the Transportation Accident: Safety, Technology and Accident Investigation (1 Hour)

Dram Shop Liability: Event Venue (1 Hour)

Drivers Under Duress: Driver and Witness Preparation (1 Hour)

Dude, Where's My Driver: Automated Vehicles (1 Hour)

Florida Condominium Litigation (2 Hours)

Initial Case Assessment & Valuation (1 Hour)

Keeping It Fresh: A Multi-State Review of Evidence Spoliation and Sanctions (1 Hour)

Data Driven Decisions

Defense Minded

Regional Firm

Large Firm Capabilities

Small Firm Flexibility

Loans, Liens, and Lawsuits: Can I Borrow Your Litigation? (1 Hour)

Marijuana Insurance: A Growing Industry (1 Hour)

Mediation Settlement & Life Care Plans (1 Hour)

Mock Trials & Jury Deliberations (1 Hour)

Preparing a Corporate Witness (1 hour)

Shams, Scandals, and Shakedowns: A Multi-State Review of Insurance Fraud (1 Hour)

The Good The Bad & The Ugly: A Multi-State Community Association Rules Under the FHA (1 Hour)

Trial By Mediation: Tactics and Strategies for Effective ADR (1 Hour)

ACCIDENT RESPONSE & RECONSTRUCTION

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

During this presentation, we will address the accident response, including the persons involved, and the importance of imposing strict preservation obligations upon drivers and contractors. We will explore the investigation of an accident scene and the aspects of the scene that should be examined promptly, when possible, to capture the roadway, vehicles, and environment in the condition they were in at the time of the incident. We will also address the various sources information can be ascertained from, at the scene investigation and beyond. The presentation will also explain the various pieces of data that are derived from electronic vehicle recording systems, and how those can be used in presenting a defense or evaluating the driver's liability. Lastly, we will address the different kinds of experts that can assist in the liability assessment and defense, and instances where bringing on those experts during the investigation phase may prove advantageous.

ASSUMING THE RISK OF ATTENDING A SPORTING EVENT:

The "Baseball" Rule

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

Major League Baseball games are a part of the fabric of America. A national past time that families have enjoyed since before the American League and National League joined together to form Major League Baseball in 1903. However, with more and more major league teams updating their stadiums, or constructing new ones altogether, the fans are getting closer and closer to the game. The new proximity of the fans to the diamond, combined with batted balls coming off the major leaguers' bats at 100 mph, have resulted in serious injuries. Each year, approximately 1,750 spectators are hurt by baseballs, mostly foul balls, at Major League Baseball games. That amounts to at least two people becoming injured every three games. That is more often than a major league batter is hit by a pitch, which happened 1,536 times in 2014. However, Major League teams often avoid any liability for their fans' injuries and expenses resulting therefrom due to the "Baseball Rule," which provides that stadium owners and operators are not responsible for injuries sustained by batted balls or bats, so long as netted or screened seats are in place for a reasonable number of spectators.

Under the so-called Baseball Rule, the fan is responsible for his or her own well-being and remaining attentive. To further this rule, every MLB team has language on the back of their tickets informing the fan that, by attending the game, they are accepting the risk that balls and/or bats may fly into the stands, and that the team has no liability for any injuries resulting from same. However, there are numerous entities calling for the MLB to require extended netting. Are these waivers of liability sufficient to bar all claims of negligence against the MLB and individual teams? At what point will the MLB and the individual teams be said to be on notice that the close proximity of fans without adequate protective devices constitutes negligence? Has that point already arrived?

BOWLING ALLEY LIABILITY:

How Slippery Can The Slope Be?

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

While bowling alley foul line breaches may seem elementary, courts in various states have been reluctant to treat them as such. This presentation will look at states' treatment of assumption of risk, applicability of contributory negligence as a bar to recovery, and evaluation of these standards through the Court's lens. The goal of this presentation is to provide a brief but informative overview of the key factors influencing liability, the standards applied by the Courts in evaluating liability, and use specific case examples to illustrate their interplay. Numerous factors will be discussed and illustrated in order to ensure the attendees' absorption of the material. The presentation will also detail many various cases considered by Courts in Arizona, California, Florida, New Jersey, New York, and Texas in order to highlight the differences and similarities between them.

COMMUNITY ASSOCIATIONS:

Limiting Liability By Looking For The Fine Print

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

Community Associations are typically composed of a Board of Directors that volunteer their time and energy in hopes of improving their neighbors and their own quality of life and investment. However, many Associations leave themselves exposed to litigation by failing to ensure their Governing Documents and Contracts properly protect their interests. This presentation will be tailored towards insurers and claim handlers in understanding the various ways in which Community Associations leave themselves vulnerable to litigation, and how to properly evaluate a claim in such scenarios. We will discuss the various types of Association Contracts, including some important provisions that should be examined closely. We will next discuss a Community Association's tort claim immunity and anti-subrogation language commonly found in an Association's Governing Documents and its impact on litigation in New Jersey, New York, Pennsylvania, Texas and Florida.

CYBER LIABILITY:

Remediating A Cyber Attack

PROGRAM: 2.0 HOURS - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

This presentation will educate the attendee as to Cyber Liability insurance coverage and how to properly and adequately prepare the client and the claims handler for a cyber-attack and breach. The presentation will examine how to prepare for a breach, while also explaining how to safeguard data in order to prevent a breach. Managing access to data is an important tool in order to prevent cyber intrusion and the presentation will discuss what occurs when data is mismanaged or improperly managed. Once a breach occurs, it is important to have a swift and controlled response, and the presentation will discuss proper response techniques and how to remediate the company/client due to a breach. Lastly, the presentation will examine high profile security breach cases and the fallout from those cases as teaching lessons.

DEFENDING THE TRANSPORTATION ACCIDENT:

Safety, Technology And Accident Investigation

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA
CLE STATE(S) APPROVED: FLORIDA

Before an accident even occurs, companies and insurers must know how all actions taken leading up to the accident have an ultimate effect on how the claim is eventually resolved. During this presentation, we will explore how to prepare for an accident from the time a driver is hired, to when they begin driving, and ultimately how to handle the “Reptile Theory” questions post-accident. To achieve a successful outcome, companies must implement safety programs and actively use technology to assess their driver’s performance, company safety policy, and post-accident reconstruction. Specifically, we will address the use of safety programs and safety techniques from the time a driver is hired to ensure that all safety rules are being followed. We will examine FMCSA Regulations and state regulations. We will also address the use of in-cabin cameras and other technology to capture driver actions at time of the accident, and the moments immediately preceding it, to show compliance with all safety programs.

The session will also discuss implementation and preservation of in-cab video technology during investigation in the hours and days following an accident, and the effects that post-accident investigation can have on plaintiffs' verdict and settlement strategy. The session will further discuss how to defend against the “Reptile” questions utilizing the preserved evidence and compliance with safety protocols. Lastly, this session will focus on what insurance adjusters, producers, agents, and claims counsel need to focus on in assessing and tolerating various risks to determine whether a case should be resolved or tried. Insurers need to know how to properly defend a claim from the moment it occurs to mitigate exposure, tolerate risk, and achieve an acceptable outcome for the insured and the company. The tripartite relationship is key and the attendees will learn the ethical considerations involved in properly defending a claim when there are various interests between insured, insurer, and counsel. A thorough understanding of these safety techniques and property defending against “Reptile Theory” techniques will provide the insurer and its employees the knowledge, skills, and ability to adjuster and defend any potential claim.

DRAM SHOP LIABILITY:

Event Venue

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR

CE STATE(S) APPROVED: ALABAMA, DELAWARE, FLORIDA, LOUISIANA, TEXAS

Thirty states have statutory provisions that allow licensed establishments such as restaurants, bars, and liquor stores to be held liable for selling or serving alcohol to individuals who cause injuries or death as a result of their intoxication. Twenty-two of the thirty states statutorily limit the liability to cases where the establishment sold or served alcohol to: An obviously intoxicated individual; or a person under the legal drinking age. Beer is big business in professional sports and after events, thousands of potentially impaired take to the road. In a 2011 study funded by the Robert Wood Johnson Foundation, University of Minnesota researchers tested the blood-alcohol level of fans leaving professional baseball and football games and found about 8% were above the legal driving limit. That translates to about 5,000 fans exiting a typical NFL game with high enough blood-alcohol content to be considered intoxicated under New Jersey law. Causation will always be a major hurdle in such cases with pre-game and post-game tailgating and consumption, the proliferation of beer vendors and refreshment stands throughout a stadium, and the volume of patrons served demonstrating how difficult it can be to meet New Jersey's standard of negligent service of alcoholic beverages. Demonstrating whether and by whom the impaired driver was served while visibly intoxicated is the topic to discuss.

DRIVERS UNDER DURESS:

Driver And Witness Preparation

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR

CE STATE(S) APPROVED: TEXAS, FLORIDA

Recent trends in personal injury litigation have seen a dramatic rise in specific deposition questioning intended to increase the amount of potential damages during a defendant's testimony, even in cases where liability has already been admitted by the defense. Knowing how to not only anticipate these lines of questioning but preparing a client to do the same can often be the difference between a reasonable settlement and a nuclear verdict for the plaintiff. This session will stress the importance of remembering not only for attorneys, but for insurers and adjusters as well, that the most common witness in these depositions is a truck driver, likely without any experience in the pressures of deposition questioning, or the effects that their answers can have on the ultimate outcome of a case. It will be explained that even while a case may involve a simple rear-end motor vehicle accident, a driver's testimony about speed, time, and distance factors can change the entire trajectory of damages. Cases specifically involving commercial vehicles and insurance policies also frequently involve questions under the so-called Reptile Theory that are designed to increase damages by making the defendants appear as if creating a danger to the public at large by allowing seemingly unqualified individuals to operate large and dangerous vehicles without proper training or regard for the safety of the others within the community.

However, it will be demonstrated that with thorough and carefully planned preparation, any witness can overcome the challenges and pressures presented by even the most skilled opposing attorneys. By following the steps below, and allowing adequate time for detailed preparation, it can be made clear to any jury that despite the best precautions taken and safest policies in place, accidents can still sometimes occur. Using practice questions and realistic questioning scenarios can be the difference between a swift and just settlement, or a crippling verdict at trial, and these scenarios will be played out with the audience to illustrate their importance in a real-life setting. Allowing insurers, adjusters, and other industry professionals to see what the plaintiff's attorney sees can be eye-opening in evaluating future cases.

DUDE, WHERE'S MY DRIVER:

Automated Vehicles

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

The future of delivery transportation is upon us and it does not include a driver. Amazon proposes to use drones to deliver packages through its Prime Air program. Domino's Pizza wants to deliver your next pie with a drone. FedEx and UPS are working to bring your next day air package literally by air to your doorstep. Google has patented a driverless delivery truck and Uber wants to get you home with a driverless car. The advent of these self-driving modes of transportation raises a host of new questions. Who is responsible if there is an accident? How does the regulatory world of the FAA and the Federal Motor Carrier Safety Administration impact these new forms of transportation? How does the lack of a human driver affect the owner's insurance coverage? How do these cross over into management liability policies? What can risk managers do to avoid potential exposure on these policies? Our panel will explore how current liability, regulatory and insurance paradigms may be insufficient to fully address these emerging technologies and start a dialog on how the transportation and insurance industries can develop strategies to address the not so distant future of the driverless delivery vehicle.

FLORIDA CONDOMINIUM LITIGATION

PROGRAM: 2.0 HOURS - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: FLORIDA

In order to enhance the ability of claims professionals to understand the nuances of condominium law in Florida and navigate pitfalls of litigation in Florida related to insured condominiums, an overview of the legal framework governing condominium associations and condominium association litigation in Florida is presented.

This Florida condominium law litigation course is a detailed review of the Florida statutory scheme governing condominium associations, the role of condominium governing documents in assessing potential liability of condominium associations, typical factual scenarios giving rise to condominium association liability in Florida, viable defenses and appropriateness of summary disposition, unique legal issues related to defending liability cases in Florida, and good faith claims handling.

The goal of this course is to provide a solid foundation of information claims professionals can build on through the continuing learning process to inevitably assist the claims professional in becoming more valuable in the claim environment. Upon completion of this program, the claims professional will have a greater understanding of both good faith investigations and claims handling related to community association litigation in Florida.

INITIAL CASE ASSESSMENT & VALUATION

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

Litigation has one ultimate goal: successful resolution. Many times, a successful resolution will be defined as winning the case on the merits, particularly in a case where liability is clearly adverse. However, sophisticated clients will often define a successful resolution as “the earliest resolution possible for the least amount of dollars expended.” Early resolution through dismissal, settlement, and even a speedy trial allows a client to get back to their core business and stops the drain on client resources from the litigation process.

When success is defined as the least amount of dollars expended to reach a resolution, it is critical that the initial case evaluation and assessment clearly delineates the case strategy. An initial case assessment is fundamental in the overall legal process as it can identify information that directly impacts the overall case. During an initial case assessment, defense counsel (and the client) need to identify significant legal and factual issues, determine the litigation timeline and expenses, determine the range of recovery or exposure, and evaluate whether an early settlement might be worth pursuing. During this course, we will focus on the initial case assessment and the relevant factors to consider when preparing that assessment. Further, we will focus on the importance of obtaining information regarding the plaintiff’s alleged damages in order to provide a proper valuation of the case so that reserves can be set. Overall, this course will address claim evaluation and risk analysis assessment methods used to determine settlement value and develop resolution plans.

KEEPING IT FRESH:

A Multi-State Review of Evidence Spoliation and Sanctions

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR

CE STATE(S) APPROVED: FLORIDA, GEORGIA, MISSISSIPPI

One of the most overlooked elements of claims defense is the necessary preservation of evidence, and the significant effects that a failure to do so can have on resulting litigation. This presentation will take a deeper look at the numerous examples of potential spoliation that many claims adjusters, independent investigators, and even attorneys often overlook in their investigation of a claim. It will also provide a multi-state overview of the various sanctions often implemented against defendants during litigation, with roots in each state's pattern jury instructions, civil court rules of practice, and various case law on the issue, to illustrate both the similarities and differences in each state's interpretation of the concept.

LOANS, LIENS, AND LAWSUITS:

Can I Borrow Your Litigation?

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

The purpose of this course is to define third-party litigation funding; understand why plaintiffs want and/or require funding; learn how plaintiffs obtain funding (and plaintiffs' attorneys' role in obtaining same); consider ethical aspects of the loans; and discuss defense options and strategies as to these loans.

MARIJUANA INSURANCE:

A Growing Industry

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

To date, twenty-nine states (29), as well as Washington, D.C., now allow for the cultivation and use of marijuana for medical and/or recreational purposes. Seven new states legalized marijuana in the last election alone. Nevertheless, marijuana is still classified as a Schedule 1 controlled substance under the Controlled Substance Act. Therefore, this presentation will look at how state courts have decided whether marijuana-based insurance claims are enforceable under policies in “legal” states. The presentation will then highlight different types of marijuana-based insurance policies, the need for certain types of coverage, and the risks associated with marijuana-based policies. Lastly, the presentation will highlight two of the earliest product liability lawsuits stemming from the “legal” sale of marijuana products. Numerous factors will be discussed and illustrated in order to ensure the attendees’ absorption of the material.

MEDIATION SETTLEMENT & LIFE CARE PLANS

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

Once an accident occurs and a notice of claim or suit is filed, the transportation carrier must make a determination how to effectively handle the claim. This evaluation process takes into account all the available liability and damages defenses, however, once the decision is made to attempt resolution the carrier must determine the best settlement strategy. Often the biggest obstacles to settlement of cases in this industry is the life care plan, which uses inflated data to project lofty future expenses. Claimants always point to these future expenses to increase the value of the case, while defendants downplay the value in order to achieve the desired result. In addition to life care plans, lofty medical expenses and Medicare liens often times make settlement difficult, especially for claimants who need future treatment and will be Medicare eligible during the course of this future treatment arising out of the subject accident. At mediation the goal is to satisfy Medicare's requirements by offering a Medicare Set Aside and this allows the defendant to comply with the guidelines by taking into account Medicare's interest, even if the claimant does not accept the set aside.

The goal is always to settle for the best possible dollar amount while keeping the interests of the client in mind. To achieve an effective settlement whether at mediation, settlement conference or direct negotiations the parties want to consider ways to make the money they are offering to settle look better for plaintiff. For this reason, structures are an essential tool to use when entering into negotiations. Whether the settlement is 5, 6, 7, or more figures, structuring is a benefit for both parties. Presenting offers in the form of a structure allows the defendant to settle a case for a lower number while the claimant has the desired benefit of increasing the overall settlement amount. Settlement in this manner allows claimants to have a tax-free annuity that pays out in periodic installments after a designated time following the settlement.

MOCK TRIALS & JURY DELIBERATIONS

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

The rise in popularity of mock trials (a/k/a focus groups) are designed to give litigants and attorneys valuable insights into jury deliberations on critical issues in a contested case. During this presentation, we will explore the techniques and strategies being used in the growing mock trial industry. Specifically, as defense attorneys, we discuss how to develop and present critical issues or “defense anchors” in a mock trial. These “defense anchors” are designed to give mock jurors (and then real jurors) talking points that will lead to a favorable outcome for the defendants. We will also examine the issues the plaintiffs could use, in mock trial, to anger and inflame a mock jury (and then actual) jury to punish the defendants at trial. The session will explore the mock trial presentations known as “clopennings”. In these clopenings, attorneys present an entire case to a mock jury in a condensed fashion. Attorney presentations begin as openings to set the scene and then move to an argumentative closing. Finally, we will look at the actual value of the verdicts and awards given by mock jurors and how to process the information an attorney/party has learned in a mock trial.

PREPARING A CORPORATE WITNESS

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

The purpose of this course is to discuss corporate representative depositions, including: the obligations imposed on the requesting and responding parties by the applicable rules and interpreting law; discovery trends in both the theories of liability and lines of questioning pursued by plaintiffs' counsel; defense options and strategies when responding to requests for a corporate representative deposition, and trying to weave responses into defense themes; and the potential impact of corporate rep deposition testimony and admissions upon a claim's value.

SHAMS, SCANDALS, AND SHAKEDOWNS:

A Multi-State Review Of Insurance Fraud

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR
CE STATE(S) APPROVED: TEXAS, FLORIDA

The Office of the Attorney General states that insurance fraud costs each NJ resident \$1,300 per year. Our presentation seeks to do the following: (1) outline fraud in the BI claim; (2) outline fraud in medical records/treating physicians; (3) discuss how to detect fraud; and (4) what carriers can do about fraud in the defense of BI Claims?

THE GOOD, THE BAD & THE UGLY:

Community Association Rules Under The FHA

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR

CE STATE(S) APPROVED: TEXAS, FLORIDA

The purpose of this course is to discuss the Fair Housing Act and how it applies to Community Associations specifically. Examples will be used to illustrate the varying types of scenarios that give rise to a claim under the Fair Housing Act and will include timely topics such as the rise in service animals and recent case law. The presentation will also provide key takeaways on how to protect Community Associations from liability arising out of the Fair Housing Act.

TRIAL BY MEDIATION:

Tactics and Strategies for Effective ADR

PROGRAM: 1.0 HOUR - CLASSROOM/WEBINAR

CE STATE(S) APPROVED: ALABAMA, FLORIDA, GEORGIA, MISSISSIPPI

While trial prowess and experience are important elements of leverage when it comes to settlement negotiations, the fact is that trial is typically a high-cost and high-risk investment for most parties, with the associated costs rising every year. To best serve their clients, a good litigator must know when to proceed to trial, and when to recommend the more cost-effective route of alternative dispute resolution (ADR). However, while litigation attorneys are often well-versed and significantly experienced in this regard, many claims handlers or insurance adjusters are often new to the process, or unfamiliar with how it is approached in different jurisdictions. What may be called a “settlement conference” in one state is replaced by mandatory arbitration in another, and there is a tremendous difference between court-organized and “private” mediation.

This presentation will explore the different types of ADR, ranging from arbitration, mediation, neutral evaluation, and settlement conferences, and discuss numerous tactics and strategies to not only adequately prepare for the anticipated negotiations, but to gain leverage during the actual ADR session and maximize the chances for a favorable resolution. From the outset of the decision to mediate, to selecting the best mediator, to planning an intended opening statement, we will cover each step involved with the mediation process to offer a comprehensive outline for defense litigators and claims examiners to ensure a positive outcome, reduce costs and potential risks, and ensure that all established goals are accomplished. While the most important objective is of course to resolve the case, setting more specific goals and milestones in advance will maximize the chances of completing that objective.