



August 2016 • A Monthly Publication of the Atlanta Claims Association

## Golf & Tennis Outing



Please visit our website at: [www.atlantaclaims.com](http://www.atlantaclaims.com) for further information and to register online.



# From the President

Dear Fellow ACA Members,

Summer is upon us. Everyone is planning for vacations, parties and outdoor events. Atlanta has, thankfully, missed the tornados and flooding plaguing the northeast and Midwest. We have also missed out on the hail and wind storms, much to the dismay of independent adjusters. It never failed to amaze me how much pleasure independent adjusters got from catastrophic weather events!

This year's Golf & Tennis Tournament was a huge success. We had 81 golfers and 8 tennis players at the Rivermont Golf Club. The weather was beautiful, well behaved and a grand time was had by all. The food and accommodations were outstanding. We have Constance Woods, Andrew Fisher and their committee to thank for putting this event together. I want to especially thank all of the sponsors for their contributions and to making this another successful ACA event.

Our Special Events Committee has been hard at work planning several events for the next few months. We realize that most adjusters cannot take time away from work to attend luncheons, so we are planning more events for after-hours so adjusters can attend without missing work. We will be notifying you of the upcoming events so that you can make your plans to join us. Last year's event at Pappasitto's was a great success. Look for an e-mail blast soon with details about this year's Pappasitto's social event August 16th. And don't forget to check the website and Claimscene for Save-the-Date notices.

We welcome all suggestions and advice to help improve Atlanta Claims Associations. Please feel free to contact us on our website.

Regards,

Pamela M. Glick  
President  
Atlanta Claims Association



**Tuesday,  
August 16<sup>th</sup>, 2016**

**Pappasitto's Cantina**  
2788 Windy Hill Rd  
Marietta, GA 30067

5:30 - 7:30 PM

Reservations Required  
Limited Seating  
RSVP Required

Online Registration and payment  
is now available for monthly meetings  
[www.atlantacclaims.com](http://www.atlantacclaims.com)

Contact:  
Frances Harper  
[franhga@comcast.net](mailto:franhga@comcast.net)

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**CH & Editor – Ann Wright**  
[ann.wright@countryfinancial.com](mailto:ann.wright@countryfinancial.com) / 770-403-6822  
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**Vol. LXXII, No. 05, August 2016**



# ACA ATLANTA CLAIMS ASSOCIATION

Join Atlanta Claims Association for Our Summer Wind Down Social

## PAPPASITO'S CANTINA

2788 Windy Hill Road  
Marietta, Georgia 30067

**August 16th - 5:30 to 7:30 pm**

Free for Members – includes 2 free drink tickets & food

\$40.00 for non-Members- includes 2 free drink tickets & food

**\*\*\$5.00 discount for non-members with completed membership application\*\***

*Completed application = free admission to 2 Fall Social Events*

Register early as space is limited – [www.atlantaclaims.com](http://www.atlantaclaims.com)

Sponsorship Opportunities are Available

# 2016 Legislative Update

The 2016 session of the Georgia General Assembly saw a number of controversial bills debated and ultimately passed. Despite a heavy Republican majority in both the House and Senate, Governor Deal went against many in his own party by vetoing more than a dozen bills, including the highly controversial “religious liberty” bill (HB 757). Of particular interest to many ACA members, he also vetoed HB 216, which was a controversial bill that would have impacted workers compensation claims for firefighters and could have potentially lead to expanded occupational disease claims in the workers compensation setting.

Much of the early part of the session was dominated by a push for casino gambling. While that effort died in committee, it is surely not the last we have heard from its proponents. The headlines quickly turned to the so called “religious liberty” bill. After a lengthy and heated debate, it was eventually passed. However, after seeing the economic backlash experienced by several other States that had passed similar bills, Governor Deal went against many in his own party by vetoing the bill. He also vetoed the controversial “campus carry” bill (HB859), although he signed into law a similar bill allowing for non-lethal weapons, such as Tasers, on college campuses.

As for legislation of interest to the ACA membership, HB 216 was at the top of most people’s radar. It had actually been debated in the 2015 session, and the bill that passed this year was a compromise bill that was thought to be much more palatable to the business community. However, after a heavy lobbying effort, Governor Deal vetoed the legislation. HB 934 was also passed and signed into law. It limits the ability of engineers, architects and surveyors to indemnify others for their own negligence. SB 137 was also passed and signed into law, which expands valuation standards for residential property destroyed by fire to property owned by legal entities (it was previously limited to property owned by a “natural person”).

We will continue to monitor legislation and keep the ACA membership informed of new developments. If you have any questions or would like a complete copy of any of these new laws, please feel free to email me at [Dcochenour@hallboothsmith.com](mailto:Dcochenour@hallboothsmith.com).

Duane L. Cochenour  
ACA Legislative Committee Chair  
Hall Booth Smith, P.C.

# Save The Date

See the ACA Website for additional details

## September 15

Top Golf, Alpharetta

## October 13

Bowling at Main Event, Alpharetta



# ACA Golf & Tennis Outing

Tuesday, May 10th was a spectacular day for the Annual Atlanta Claims Association Golf & Tennis Outing! Over 90 people joined us on the greens and the courts for a day of competition and festivities. Rivermont Golf Club was again a wonderful host to our group. The Outing though would not have been possible without our incredible sponsors:

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**The following individuals were the big winners of the day:**

## **Golf Scramble**

**1st Place:** Steve Macon, Rodney Dodd,  
Bill Johnson & Ken Swanson  
**2nd Place:** Mike Berens, Mitchell Brannen,  
Maurice Allen & Graham Shaw  
**3rd Place:** Jayson Witherspoon, John Smith,  
David Uhlman & Jeff Christy  
**4th Place:** Robert Luskin, Joshua Stein,  
Michael Collins & Eric Guyer

## **Closest to the Pin:**

Hole #4 John Huot  
Hole #6 Dave Raab  
Hole #14 Tim Susic  
Hole #17 Ken Williamson

**Longest Drive Men:** Tom Keffer

**Longest Drive Ladies:** Danae Paul

**Straightest Drive Men:** Rusty Watts

**Straightest Drive Ladies:** Danae Paul

**Longest Putt Holed:** Tom Keffer

Thank you to everyone who helped us to make this another great year for the Golf & Tennis Outing! We look forward to seeing everyone next year!



# Southeast Regional Claims Conference

Faculty of leading Southeastern insurance attorneys, professionals, and experts

Focus on Southeastern legal trends and court decisions

Need-to-know information for handling claims in the Southeast

Moderated table discussions during on-site lunch

September 28, 2016

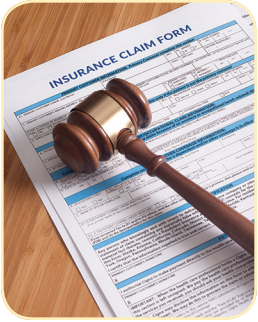
Cobb Energy Performing Arts Centre

Atlanta, Georgia

DRI delivers **resources** to build your practice

**T**his one-day regional seminar is designed for frontline adjusters, their managers, and outside defense counsel in the Southeast who primarily handle property and casualty, auto, commercial, and construction claims. DRI will host a networking luncheon with moderated table discussions so you can discuss what matters most to you. The program will be submitted for CE and CLE credit.




PRESENTED BY **DRI's Insurance Law Committee**



## What You Will Learn


- Lessons from bad faith trials in the Southeast
- How to handle catastrophic injury claims
- Tips to avoid UM/UIM problems
- When and why the duty to defend arises
- What's new with Medicare Secondary Payer compliance

## Get Started

- 1 Review the brochure and identify sessions of interest to you
- 2 Share this brochure with colleagues
- 3 **Register online** at <http://dri.org/Event/20160136> or complete the **form in the back**
- 4 **Add the program** to your calendar
- 5 Share on social media   

## Maximize Your DRI Seminar Experience

*No one gets you connected like DRI.*

- Access the **DRI Insurance Law Committee Community** at <http://community.dri.org/home> to network with individual members. Share articles, post blogs, and connect with others on the latest trends in your area of practice.
- Discover the  **DRI Client Connection**—meet in-house registrants and speakers.

## PROGRAM SCHEDULE

*Click on any speaker name to view bio.*

### SEPTEMBER 28

7:00 a.m. **Registration**

7:00 a.m. **Continental Breakfast**

8:00 a.m. **Welcome and Introduction**

**F. Lane Finch, Jr.**, *Swift Currie McGhee & Hiers LLP*,  
Birmingham, Alabama

**Thomas F. Lysaught**, *Hickey Smith LLP*, Chicago, Illinois


8:15 a.m. **Lessons Learned from Recent Bad Faith Trials**

Learn from the mistakes of others. Leading insurer trial counsel will explain how claims end up in bad faith litigation. You will also hear about the tactics that policyholder's counsel are employing—and how insurers are countering those theories—both before and during trial.

**Christopher W. Martin**, *Martin Disiere Jefferson & Wisdom LLP*,  
Houston, Texas

9:00 a.m. **Ethical Considerations for Insurers and Their Attorneys When Investigating Claims**

This program will explore the ethical and privilege implications when insurers and their attorneys commingle the role of investigating the facts of a claim with the role of providing legal advice on the coverage decision. Learn about a concerning trend in the courts to restrict or eliminate the attorney-client privilege and require disclosure of attorney work product, as well tips on how to protect attorney-client communications.


 **Laura Ann Hawkins**, *Hiscox Insurance*, Atlanta, Georgia

**Stephen M. Schatz**, *Swift Currie McGhee & Hiers LLP*, Atlanta, Georgia

10:00 a.m. **Refreshment Break**

10:15 a.m. **Navigating the Complexities of Construction Defect Litigation**

Construction defect claims can be complicated to litigate due to the nature of the claims and the number of parties involved. These claims are further complicated by coverage issues with additional insureds, as well as many policy exclusions that frequently generate disputes. This presentation will provide a roadmap to navigating those issues and an overview of the latest case law.

 **Matthew J. Ford**, *XL Catlin*, Atlanta, Georgia

**Bryce W. Mowbray III**, *Hickey Smith LLP*, Atlanta, Georgia

 Denotes **THE DRI CLIENT CONNECTION**: In-house speakers



11:00 a.m. **Catastrophic Injury Damages Models: How Did We Get Here and Where Are We Going?**

The world of catastrophic injury damages models is changing by the day—and certainly not to the benefit of the defendant. This segment will review the development of catastrophic injury damages models and where they are today. The discussion will look at the “fantastical” nature of many damages models we see in defending catastrophic claims and where they may be trending, particularly in the transportation and general liability claims segments.

**Clint V. Cox IV**, *Fee Smith Sharp & Vitullo LLP*, Dallas, Texas

**Howard A. Zandman, CPA, CFF, MAFF**, *Habif Arogeti & Wynne LLP*, Atlanta, Georgia

11:45 a.m. **Networking Luncheon** with moderated table discussions  
(*please check box on registration form*)

1:15 p.m. **Update on Medicare Issues**

The year 2016 has been filled with many changes involving Medicare Secondary Payer compliance. Along with significant changes concerning conditional payment claim resolution, there are several important court decisions involving Medicare Secondary Payer issues. This presentation will help everyone involved in the claims process avoid costly mistakes.

**Melisa C. Zwilling**, *Carr Allison*, Birmingham, Alabama

2:00 p.m. **What Has Eight Corners, but Isn't a Cube? Issues Arising from the Duty to Defend**

What are the most frequent issues in defending insureds in third-party claims? This program will cover those, including the “eight corners rule” and its exceptions, defending under a reservation of rights, withdrawal from the defense, the insurer's rights/obligations concerning declaratory relief, retention of independent counsel; trigger theories and overlapping coverage, refusal of defense by the insured, and waiver and coverage by estoppel.

**Kathy J. Maus**, *Butler*, Tallahassee, Florida


 **Sarannah L. McMurtry**, *First Acceptance Insurance*, Nashville, Tennessee

2:45 p.m. **Refreshment Break**

3:00 p.m. **UM/UM Stumbling Blocks**

There were significant amendments to the Georgia UM statute in 2009. Trial courts initially struggled with interpreting many of those amendments. Over time, the appellate courts provided some clarity. Stephanie and Sean will address a number of these issues, including medical payments offsets, differences between standard and excess

coverage, workers' compensation offsets, selection/rejection requirements, and others.


 **Stephanie V. Chavies**, *State Farm Mutual Automobile Insurance Company*, Atlanta, Georgia

**Sean L. Hynes**, *Downey & Cleveland LLP*, Atlanta, Georgia

3:45 p.m. **Follow the Money: The Importance of the Insured's Finances in First-Party Claims**

Whether the insurer suspects fraud, or is simply confronted with large claims for business interruption losses, diminution of value, or a mortgage holder's interest in the proceeds of the insurance policy, it helps to understand how the insured's financial position affects coverage. Learn about the roles of special investigation units, outside counsel, and CPAs in examining these claims and hear tips and tricks to help you understand the insured's financial situation while examining the first-party claim.


**Christopher R. Teske**, *Gieger Laborde & Laperouse LLC*, New Orleans, Louisiana

 **Tim D. Tribe, CPA, CFF, CFE, CICA**, *REDW LLC*, Phoenix, Arizona

4:30 p.m. **Diminution in Value: Issues in Auto Claims**

This panel will discuss handling diminution in value claims in both the first-party and third-party contexts, including common issues in handling these types of claims, and factors to consider when evaluating diminished value claims. The panel will also discuss Georgia's third-party bad faith statute and its effect on the handling of diminution in value.

**Seth M. Friedman**, *Lewis Brisbois Bisgaard & Smith LLP*, Atlanta, Georgia

 **Sari B. Marmur**, *Travelers*, Alpharetta, Georgia

5:15 p.m. **Adjourn**

5:30 p.m. **Networking Reception**

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## GENERAL INFORMATION

## In-House Counsel/Claims Executives/Examiners

The registration fee for the DRI Southeast Regional Claims Conference is waived for all in-house counsel, claims executives and examiners currently employed by an insurance company or similar corporation. This offer is valid for this seminar only. To register, please call DRI Customer Service (312.795.1101).

## Seminar Location

Cobb Energy Performing Arts Centre, 2800 Cobb Galleria Parkway, Atlanta, GA, 770.916.2800

## CLE/Claims Adjusters Accreditation

This seminar has been approved for MCLE credit by the State Bar of California for up to 7 hours, including 1 hour of ethics credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. **Application has been made for continuing education for claims adjusters.** Credit availability and requirements vary from state to state; please check the DRI website at [dri.org](http://dri.org) for the latest information for your state.

## Registration Policy

**Save \$100 when you register by August 29, 2016.** (See the registration form for pricing.) The registration fee includes course materials, continental breakfast, refreshment breaks, networking luncheon and networking reception. If you wish to have your name appear on the registration list distributed at the conference and receive the course materials in advance, DRI must receive your registration by **September**

**5, 2016** (please allow 10 days for processing). Registrations received after **September 5, 2016**, will be processed on-site.

## Refund Policy

The registration fee is fully refundable for cancellations received on or before **September 5, 2016**. Cancellations received after **September 5** and on or before **September 12, 2016**, will receive a refund, less a \$50 processing fee. Cancellations made after **September 12** will not receive a refund, but a \$50 certificate good for any DRI seminar within the next 12 months will be issued. All cancellations and requests for refunds must be made in writing. Fax (312.795.0747) or email ([seminars@dri.org](mailto:seminars@dri.org)) to DRI's Accounting Department. Processing of refunds will occur within four weeks after the date of the seminar. All refunds will be processed in the same method that the payment was received. Substitutions may be made at any time without charge and must be submitted in writing.

## Discounts

**Travel Discounts** DRI offers discounted meeting fares on various major air carriers for **DRI Southeast Regional Claims Conference** attendees. To receive these discounts, please contact Direct Travel, DRI's official travel provider, at 800.840.0908. As always, to obtain the lowest available fares, early booking is recommended.

## Hotel Information

**Click here** for a list of nearby hotels on the DRI website (visit [dri.org](http://dri.org) and go to the **DRI Southeast Regional Claims Conference page**; click on the "Hotel" tab to the right of "Overview" and "Registration").

- The taping or recording of DRI seminars is prohibited without the written permission of DRI.
- Speakers and times may be subject to last-minute changes.
- DRI policy provides there will be no group functions sponsored by others in connection with its seminars.

## CLE for Your Practice

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September 8–9, 2016

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September 22–23, 2016

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November 10–11, 2016

**Asbestos Medicine**

Sheraton New Orleans, New Orleans, Louisiana

November 17–18, 2016

**Fire Science**

FireSky Resort, Scottsdale, Arizona

December 8–9, 2016

**Insurance Coverage and Practice Symposium**

Sheraton New York Times Square, New York, New York

December 8–9, 2016

**Professional Liability**

Sheraton New York Times Square, New York, New York

January 26–27, 2017

**Civil Rights and Governmental Tort Liability**

Omni Nashville Hotel, Nashville, TN

February 1–3

**Women in the Law**

Omni Scottsdale Resort at Montelucia, Scottsdale, AZ

## Publications for Your Practice

## Newsletter Covered Events (12 times a year)

Visit the **Insurance Law Committee page** on [dri.org](http://dri.org) and scroll down to "Latest Newsletter."

Insurance Law focus in *For The Defense*

May 2017 (upcoming)

May 2016

May 2015

## Defense Library Series

**Professional Liability Insurance: A Compendium of State Law**  
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**Coverage B: Personal and Advertising Injury Compendium**  
**Insurance Bad Faith: A Compendium of State Law**  
**Duty to Defend Compendium**  
**Uninsured Motorist and Underinsured Motorist Coverage Compendium**  
**Unfair Claims Practices Compendium** (coming in 2016)



## Diversity and Inclusion in DRI: A Statement of Principle

DRI is the largest international membership organization of attorneys defending the interests of business and individuals in civil litigation.

Diversity is a core value at DRI. Indeed, diversity, which includes sexual orientation, is fundamental to the success of the organization, and we seek out and embrace the innumerable benefits and contributions that the perspectives, backgrounds, cultures, and life experiences a diverse membership provides.

Inclusiveness is the chief means to increase the diversity of DRI's membership and leadership positions. DRI's members and potential leaders are often also members and leaders of other defense organizations. Accordingly, DRI encourages all national, state, and local defense organizations to promote diversity and inclusion in their membership and leadership.

## SEMINAR SPONSORS

DRI wishes to thank our sponsors for their support at this year's seminar!

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## Southeast Regional Claims Conference

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Are you a first-time attendee at this DRI seminar? ☐ Yes ☐ No

How many attorneys  
are in your firm? \_\_\_\_\_

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area of practice? \_\_\_\_\_

### REGISTRATION FEE

Registration fee includes conference attendance, networking events, and course materials. DRI will email a link to download the course materials to all registrants two weeks in advance of the conference.

	On or before Aug. 29, 2016	After Aug. 29, 2016	For inclusion on the preregistration list and to receive course materials in advance, register by September 5, 2016.
<input type="checkbox"/> Member	\$395	\$495	
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<input type="checkbox"/> Claims Executive/Examiner*	FREE		*To register, please call DRI Customer Service (312.795.1101)
<input type="checkbox"/> Networking Luncheon**	FREE		**See page 3

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