



*...Bringing Together Plaintiffs' Attorneys, Defense Attorneys
and Insurance and Corporate Counsel for the
Exchange of Information and Ideas*

Tort Trial & Insurance Practice Section
a section of the American Bar Association

PROPERTY INSURANCE LAW COMMITTEE

-About The Committee-

The Property Insurance Law Committee is one of the General Committees of the Tort Trial & Insurance Practice Section (TTIPS) of the American Bar Association. Our committee focuses on the law of first-party property insurance coverage, which includes physical damage, boiler & machinery, business income and interruption, extra expense, homeowners, inland marine, and ocean marine insurance.

Property insurance generally falls into two broad categories: (1) "All-Risk" policies, which provide coverage for risks of direct physical loss or damage to covered property, except for those perils that are excluded or limited by policy terms; and (2) "Named Perils" policies, which provide coverage for risks of direct physical loss or damage to covered property caused by specific perils that are named in the policy.

Members of the Property Insurance Law Committee research the issues that arise in cases involving coverage for losses under property insurance contracts. These issues include:

- **Appraisal**—How does a property insurance policy's appraisal provision work?
- **Burden of Proof**—Who has the burden to prove coverage for a particular loss?
- **Causation**—Is there a single cause or concurrent causes? How does this affect coverage?
- **Covered Property**—What constitutes "covered property" under the property insurance policy?
- **Conditions**—Are there conditions precedent and conditions subsequent that apply?
- **Direct Physical Loss or Damage**—What is required to show that this occurred?
- **Duties of the Insured and the Insurer**—Does breach of a duty under the policy affect coverage?
- **Estoppel and Waiver**—How can a property insurer create an estoppel or waive its rights under the policy?
- **Examinations Under Oath of the Insured**—When are these required and how are they conducted?
- **Exclusions**—How are exclusions in a property insurance policy applied?
- **Fraud and Misrepresentation**—How do these affect coverage under a property insurance policy?
- **Insurable Interest**—Does the insured have an insurable interest in the damaged property?
- **Mortgagees and Loss Payees**—What are the insurers obligations to these parties?
- **Notice of Loss**—What if notice of loss to the insurer is untimely?
- **Ordinance or Law**—Is the insurer responsible for increased construction costs due to the enforcement of zoning ordinances, building codes, the Americans with Disabilities Act (ADA) or other laws?
- **Other Insurance Clauses**—How are these applied and how might they conflict?
- **Subrogation and Contribution**—Are others responsible for all or a part of a property loss?

- **Sue and Labor**—Is an insurer responsible for costs incurred by an insured to prevent loss to covered property?
- **Trigger of Coverage**—When is coverage triggered under a property insurance policy, and how does this differ from triggers of coverage under other types of insurance coverage (e.g., general liability policies)?
- **Valuation**—How is the value of the damaged or destroyed property determined?

Committee members are also concerned about general principles of contract law as they pertain to property insurance policies, such as the mutual intention of the contracting parties, conflict of law, and the duty of good faith and fair dealing.

The Property Insurance Law Committee includes member lawyers who specialize in property insurance coverage. Members may work in law firms, insurance companies, insurance claim adjusting firms, or in the insurance and risk management departments of corporations. The Committee's meetings and programs are frequently attended by accountants, engineers and other consultants who are involved in the investigation and adjustment of property insurance claims. The Committee sponsors several educational programs annually, including a Mid-Winter or Spring CLE program, a CLE program at the ABA's Annual Meeting, and regional programs in the spring and fall in locations such as Chicago, New York and San Francisco. The Committee also publishes a newsletter on topics of interest to members, and contributes articles on property insurance subjects to the ABA's *Tort Trial and Insurance Practice Law Journal*. In addition, monographs consisting of papers presented at the Committee's programs are available for purchase from the ABA.