

INSURER'S DUTY TO SETTLE FOR POLICY LIMITS WHEN DEFENDING NON-COVERED CLAIMS UNDER RESERVATION OF RIGHTS

11.16.2021

Location: Live Webcast

Seminar Time: 10:00am-11:30am

Event Sponsor: Strafford Publications, Inc.

[Click Here to Register](#)

PROFESSIONALS

Peter S. Selvin

PRACTICE AREAS

Insurance Coverage and Recovery

This CLE webinar will guide attorneys through one of the most challenging of all issues: whether to settle for the policy limits while defending a potentially non-covered claim under a reservation of rights when taking into account almost certain damages exceeding policy limits. In addition to existing case law, the panel will also discuss new insight from the Tenth Circuit Court of Appeal in *Owner's Ins. Co. v. Dockstader*, No. 19-4156 (10th Cir. June 29, 2021) (Utah law).

Description

Counsel face significant risk when deciding whether to settle ostensibly uncovered claims for policy limits and the insurer is defending under a reservation of rights. Settling may moot the coverage defenses. Failing to settle a potentially uncovered claim can lead to liability for an excess verdict.

When a plaintiff offers to settle an uncovered claim for policy limits, counsel must carefully evaluate whether to seek a declaratory judgment on coverage as well as the consequences of not doing so.

Suppose an insurer opts for conditional settlement, subject to a later coverage determination. In that case, counsel must still anticipate allegations of bad faith failure to settle and structure all aspects to defeat such claims. Counsel must have contingencies to avoid bad faith claims if the claim is covered.

Listen as this experienced panel of insurance practitioners outlines best strategies for dealing with settlement demands for ostensibly uncovered claims.

The panel will address critical issues, including:

- Whether the duty to defend includes an absolute duty to settle if an offer falls within the policy limits--even where the insurer has filed a declaratory judgment action disputing coverage
- Is there a greater duty to defend in the third-party context?
- What is the effect of a repayment clause in the underlying policy?
- How can the insurer avoid liability and avoid a claim of bad faith?
- Must an insurer accept all offers below the policy limits, regardless of circumstances?

Speakers

- Peter S. Selvin, Partner, Ervin Cohen & Jessup LLP
- Scott F. Bertschi, Partner, Clyde & Co US
- Craig M. Hirsch, Senior Counsel, Cox Castle & Nicholson

[Click Here to Register](#)