CHAPTER 1. INTERPRETING THE INSURANCE CONTRACT: RULES OF CONSTRUCTION

	2
§ 1:1	The insurance contract
§ 1:2	The role of the judiciary in interpreting and enforcing insurance contracts
§ 1:3	Interpreting policy language
§ 1:4	Interpretation based on the plain, ordinary, or popular sense of the words used
§ 1:5	Interpretation based on the understanding of the ordinary, average, or reasonable person
§ 1:6	Ambiguity
§ 1:7	Principles of strict and liberal construction that enhance coverage and limit forfeiture
§ 1:8	Interpretation based on style and size of the policy language and the policy format
§ 1:9	Construing the insurance contract as a whole
§ 1:10	Typed and standard printed policy provisions
§ 1:11	Prior court decisions and existing statutory law
§ 1:12	Endorsements
§ 1:13	Dictionaries
§ 1:14	Burdens of proof
§ 1:15	Public policy

CHAPTER 2. POLICY DUTIES

	TER 2. I GERCI DUTES
§ 2:1	Duty to indemnify
§ 2:2	Duty to defend
§ 2:3	—The "four corners" test
§ 2:4	—Allegations of the complaint supplemented by extrinsic evidence approach
§ 2:5	—The "eight corners" approach and other approache
§ 2:6	—Defending groundless and frivolous claims
§ 2:7	—Obligation to investigate the facts
§ 2:8	—Insurance company control of the defense or appointment of independent counsel
§ 2:9	Defense under reservation
§ 2:10	Duty of good faith and fair dealing
§ 2:11	Duty to give equal consideration to settlement proposals
§ 2:12	Duty to give notice of claims or lawsuits

§ 2:13 Duty to cooperate

CHAPTER 3. MULTIPLE COVERAGE ISSUES

- § 3:1 Determining primary and excess coverages
- $\S~3:2$ —Other insurance clauses
- § 3:3 —Statutory regulation of coverage priority
- § 3:4 Stacking of coverages
- § 3:5 —Intra-policy stacking
- § 3:6 —Inter-policy stacking
- § 3:7 —Regulation of stacking
- § 3:8 Offsets

CHAPTER 4. AUTOMOBILE LIABILITY POLICY

POLIC	' I
§ 4:1	Introduction
§ 4:2	Who is an insured—Named insured
§ 4:3	—Family member(s)/additional insured(s)
§ 4:4	—Permissive user (omnibus coverage)
§ 4:5	——Express permission
§ 4:6	— —Implied permission
§ 4:7	——Secondhand permission
§ 4:8	——Deviation from scope of permission
§ 4:9	The liability insuring clause
§ 4:10	—"Arising out of"
§ 4:11	—"Ownership"
§ 4:12	—"Maintenance"
§ 4:13	—"Use"
§ 4:13.50	——Directing traffic
§ 4:14	— — Objects left on the roadway
§ 4:15	— —Arising out of the use of equipment within the motor vehicle, on the motor vehicle, or attached to the motor vehicle
§ 4:16	— —Entering and exiting the insured vehicle
§ 4:17	——Towing or pushing a motor vehicle
§ 4:18	——Repair and servicing
§ 4:19	——Discharge of firearms
§ 4:20	——Objects thrown from motor vehicles
§ 4:21	——Assaults/shootings
§ 4:22	——Loading and unloading
§ 4:23	Newly acquired vehicles
§ 4:24	Temporary substitute vehicles
§ 4:25	Exclusions
§ 4:26	—Named driver exclusion
§ 4:27	—Named insured exclusion

-Family member/household exclusion

§ 4:28

§ 4:29	—Regular or frequent use exclusion
§ 4:30	—Racing exclusion
§ 4:31	—Intentional act/criminal act exclusion
§ 4:32	Punitive damages
§ 4:33	Automobile liability—Step down clauses

CHAPTER 5. UNINSURED & UNDERINSURED MOTORIST COVERAGE

§ 5:1	General overview
§ 5:2	Uninsured and underinsured motorist insuring
	agreement
§ 5:3	Uninsured motorist coverage
§ 5:4	—Offering, accepting, and rejecting UM and UIM
§ 5:5	—Who is an insured
§ 5:6	——Class I insureds (named insureds and resident
	family members)
§ 5:7	——Class II insureds (occupancy)
§ 5:8	—Self-insurers
§ 5:9	—Physical contact rule
§ 5:10	——Physical contact with intermediate objects
§ 5:11	——Falling objects from motor vehicles
§ 5:12	—Corroboration
§ 5:13	Underinsured motorist coverage
§ 5:14	Exhaustion of underlying limits
§ 5:15	Exclusions
§ 5:16	—Owned but uninsured vehicle exclusions
§ 5:17	—Government-owned vehicle exclusion
§ 5:18	—Vehicles used for public livery or conveyance
§ 5:19	—Off-road exclusions
§ 5:20	-Workers' compensation/disability benefits exclusion
§ 5:21	Workers' compensation offset
§ 5:22	Negligent infliction of emotional distress
§ 5:23	Advancing partial payments
§ 5:24	Date of accrual of claim (Statute of limitations)

CHAPTER 6. UNFAIR CLAIMS PRACTICES STATUTES

	0128
8 6:1	Introduction
8 6:2	Application of unfair claims statutes
§ 6:3	Prohibited claims practices
6:4	-Adoption of required standards for claim adjustment
6:5	—Communications with insureds and claimants
8 6:6	—Prohibited conduct
§ 6:7	Penalties and fines
§ 6 :8	Beyond the Model Act
§ 6:9	Monitoring insurance company misconduct

§ 6:10	Private causes of action
§ 6:11	—Exhaustion of administrative remedies
§ 6:12	—Statutorily created private right of action
§ 6:13	—Implied by law private right of action
§ 6:14	—State acts that disclaim a private right of action
§ 6:15	—Private right of action not acknowledged
§ 6:16	—Supplementing the unfair claims settlement
	practices act: State regulations

CHAPTER 7. BAD FAITH

O	_ 4	T 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
0	7:1	Introduction

- § 7:2 First-party (UM/UIM) bad-faith standards
- § 7:3 —Intentional misconduct standard
- § 7:4 —Negligence standard
- § 7:5 —Miscellaneous standards
- § 7:6 Third-party (liability) bad-faith standard
- § 7:7 Excess bad-faith standards (equitable subrogation/direct duty)
- § 7:8 Fair debatability defense
- § 7:9 Genuine dispute defense
- § 7:10 Advice of counsel defense
- § 7:11 Negligence of claim adjusters
- § 7:12 —Spoliation of evidence

CHAPTER 8. NEGLIGENCE

- § 8:1 Negligence in general
- § 8:2 Duty of care
- § 8:3 Breach of the duty
- § 8:4 Causation
- § 8:5 Damages
- § 8:6 Superseding cause
- § 8:7 Sudden emergency doctrine
- § 8:8 Use of traffic convictions in civil matters
- § 8:9 Comparative and contributory fault
- § 8:10 Seat-belt defense
- § 8:11 Helmet defense
- § 8:12 Negligent entrustment of a motor vehicle
- § 8:13 Negligence of minors
- § 8:14 Products liability

CHAPTER 9. ACCIDENT RECONSTRUCTION ANALYSIS

- § 9:1 Introduction to accident reconstruction
- § 9:2 The NHTSA "9-cell Matrix" (Highway Safety Matrix)
- § 9:3 Reconstruction terminology
- § 9:4 Evidence

§ 9:5 -Human evidence § 9:6 —Vehicle evidence § 9:7 — Crush damage § 9:8 ——Documenting damage § 9:9 — Wehicle damage photographs § 9:10 —Environment (scene) evidence —"Precrash" scene evidence § 9:11 —"Crash" scene evidence § 9:12 - "Postcrash" scene evidence § 9:13 § 9:14 —Scene evidence documentation § 9:15 Police report § 9:16 Photogrammetry Electronic data collection § 9:17 § 9:18 —Air-bag control modules —Powertrain control modules § 9:19 § 9:20 —Engine control modules § 9:21 Analysis methodologies § 9:22 —Newtonian physics § 9:23 -Kinematics § 9:24 —Dynamics (kinetics) —Simple kinematic equations § 9:25 § 9:26 Work-energy § 9:27 Conservation of linear momentum § 9:28 Combining work/energy and momentum § 9:29 Damage energy models § 9:30 Collision simulations § 9:31 Human factors § 9:32 —Statistics in human factors § 9:33 —Perception/reaction time § 9:34 Detection Identification § 9:35 § 9:36 Decision § 9:37 Reaction/response § 9:38 —Other factors affecting P/R time § 9:39 "Adjusting to baseline" § 9:40 Conclusion

Appendix A. Accident Reconstruction Analysis, by W.D. Grimes and J.A. Balasa

CHAPTER 10. BIOMECHANICAL ANALYSIS FORENSIC BIOMECHANICS—MOTOR VEHICLE ACCIDENTS

I. IN GENERAL

§ 10:1 Biomechanics and functional anatomy defined

\$ 10:2 \$ 10:3 \$ 10:4 \$ 10:5 \$ 10:6 \$ 10:7 \$ 10:8 \$ 10:9 \$ 10:10	Qualifications of the biomechanist Role of the biomechanist vs. medical opinion Introduction to Newton's three laws of motion and general implications for low-impact accidents —Newton's first law of motion —Newton's second law of motion —Newton's third law of motion The energy equation Vehicle impacts Part I conclusions
II. AP	PLICATION TO VEHICLE IMPACTS
§ 10:11	Introduction to biomechanical issues in motor vehicle
§ 10:12	impacts Low-speed impact collisions
§ 10:12	—Low-speed rear-impact collisions—Description of
§ 10:14	vehicle movement in low-speed rear-impact collisions — Low-velocity rear-impact experimental research
\$ 10.15	(cervical and lumbar spine)
§ 10:15	— —Moderate and high-velocity rear-impact collisions—General comments regarding cervical spine and lumbar spine injuries
§ 10:16	—Low-velocity frontal and side-impact collisions— Description of vehicle and occupant movement— Frontal collisions
§ 10:17	——Description of vehicle and occupant movement— Side-impact collisions
§ 10:18	——Spinal injury in frontal and side impacts
§ 10:19	— —Research in low to moderate front and side impacts—Spinal injuries
§ 10:20	1986 SAE human-tolerance data for the thorax— Implications for the lumbar spine
§ 10:21	Cervical, thoracic, and lumbar spine pathology
§ 10:22	—Alternative investigative approaches in spinal column injury in low-velocity impacts—Computer modeling and biofidelic models
§ 10:23	— Low-velocity collisions and degenerative spine disease
§ 10:24	——Epidemiology research—Cervical and lumbar spine
§ 10:25	——Summary of biomechanical evidence in regard to spinal injury in low-velocity impacts
§ 10:26	——Brain and brain stem injury in low-speed impacts
§ 10:27	Injuries and three-point restraint use and supplemental restraint systems (air bags)—Spinal and head (brain/brain stem)—Moderate and highlevel impact loading

§ 10:28	—Foot, ankle, and lower-leg injuries—Moderate and high-level impact loading
§ 10:29	Shoulder and shoulder girdle joints—Low-impact collisions—Rear, front, and side
§ 10:30	—Moderate and high-impact collisions—Rear, front, and side-shoulder and shoulder girdle joints
§ 10:31	Carpal tunnel syndrome—Low-impact collisions— Rear, front, and side
§ 10:32	Temporomandibular joint injury—Low-impact collisions—Rear, front, and side
§ 10:33	Glossary of terms

CHAPTER 11. ORTHOPEDIC ANALYSIS ORTHOPEDIC ASSESSMENT AND MANAGEMENT OF ACCIDENT-RELATED CONDITIONS

§ 11:1	Introduction
§ 11:2	Key definitions
§ 11:3	The role of the orthopedic surgeon and accident-
	related conditions
§ 11:4	Nontraumatic preexisting conditions
§ 11:5	Pathomechanics of injury states
§ 11:6	The orthopedic examination
§ 11:7	—Comprehensive medical history
§ 11:8	—The physical examination
§ 11:9	—Diagnostic studies—Cervical spine examination
§ 11:10	— —Thoracic spine examination
§ 11:11	— —Lumbar spine examination
§ 11:12	Diagnostic tests
§ 11:13	Spine—Cervical spine (neck)
§ 11:14	——Category 1, structural injury
§ 11:15	——Category 2, tissue-specific injury
§ 11:16	——Category 3, nonspecific soft-tissue injury
§ 11:17	— — Pathophysiology of cervical strain
§ 11:18	— — Mechanism of injury
§ 11:19	———Biology of healing
§ 11:20	———Treatment for cervical whiplash syndrome
§ 11:21	— —Outcomes and disability for cervical spine
	conditions
§ 11:22	—Thoracic spine
§ 11:23	——Common conditions encountered in thoracic
	region
§ 11:24	——Structural injuries and fractures
§ 11:25	— —Fracture/dislocation
§ 11:26	— —Tissue-specific injury
§ 11:27	——Nonspecific soft-tissue injury

§ 11:28	—Lumbar spine
§ 11:29	— —Fractures
§ 11:30	— —Tissue-specific injury
§ 11:31	— — — Discogenic pain
§ 11:32	———Radiculopathy
§ 11:33	— — Facet-mediated pain
§ 11:34	— — Nonspecific low back pain
§ 11:35	——Outcomes and treatment
	PTER 12. CHIROPRACTIC ANALYSIS
§ 12:1	Chiropractic: an introduction
§ 12:2	Chiropractic and whiplash-related disorders
§ 12:3	The history and examination
§ 12:4	—The history
§ 12:5	—Chief complaint
§ 12:6	—Mechanism of injury
§ 12:7	—Pain
§ 12:8	—Past history
§ 12:9	—Additional information
§ 12:10	—The examination
§ 12:11	Diagnostic imaging
§ 12:12	Diagnosis, prognosis, and treatment planning
§ 12:13	—The working diagnosis
§ 12:14	—Course and prognosis
§ 12:15	—Developing the treatment plan
§ 12:16	Chiropractic procedures: spinal manipulation,
	adjunctive therapy, and rehabilitative exercises—
0 10 15	Spinal manipulation
§ 12:17	—Adjunctive therapy and rehabilitative exercise
§ 12:18	—Physical modalities: definitions
§ 12:19	—Adjunctive therapy for neck pain
§ 12:20	—Physical modalities for nonspecific neck pain
§ 12:21	—Whiplash-associated disorders (WAD)
§ 12:22	—Adjunctive therapy for low back pain
§ 12:23	Levels of care and coding the encounter
§ 12:24	An introduction to medical terminology
§ 12:25	Medical record standards
§ 12:26	Claims review: critical analysis of chiropractic
	claims—The good, the bad, and the ugly
§ 12:27	—Medical records: understanding & obtaining
§ 12:28	—Summarizing and evaluating the medical record
§ 12:29	—The consultant's role: critical evaluation of claims
§ 12:30	—The history and examination
§ 12:31	—The treatment plan
§ 12:32	—Nonstandard techniques

Treatment frequency and duration guidelines:

§ 12:33

applying the principles of evidence-based-health-care (EBHC)

CHAPTER 13. REHABILITATION ANALYSIS A SYSTEMATIC APPROACH TO VOCATIONAL, HOUSEHOLD SERVICES, AND LIFE CARE PLAN ANALYSIS

§ 13:1	Introduction
§ 13:2	Vocational evaluation—Personal history
§ 13:3	——Age
§ 13:4	——Place of residency
§ 13:5	——English fluency
§ 13:6	——Ability to drive
§ 13:7	— —Criminal history
§ 13:8	——Physical stature and appearance
§ 13:9	— Marital status and dependent children
§ 13:10	——Childhood history
§ 13:11	— —Work history
§ 13:12	——Professional and community organization
	participation
§ 13:13	——Pre- and postaccident physical condition
§ 13:14	— —Identification of injuries
§ 13:15	—Medical and/or psychological foundation
§ 13:16	—Return to regular work
§ 13:17	—Transferable skills analysis
§ 13:18	—Labor market research
§ 13:19	—Employability and earning capacity
§ 13:20	—Reviewing and analyzing expert reports
§ 13:21	Claims of household services loss
§ 13:22	Future cost of care
§ 13:23	Summary

CHAPTER 14. EMOTIONAL DISTRESS INJURIES

11100.	
§ 14:1	Introduction
§ 14:2	Attribution theory: expectation is causation
§ 14:3	Commonly triggered psychiatric conditions
§ 14:4	—Adjustment disorders
§ 14:5	—Somatoform disorders
§ 14:6	—Posttraumatic stress disorder: the big, popular
	diagnosis
§ 14:7	Other psychiatric disorders affecting injury recovery
§ 14:8	Personality disorder (Axis II diagnosis)
§ 14:9	Litigation effects: the paradox of compensation
§ 14:10	The paradox of insurance coverage and potential for monetary gain
	monetary gam

§ 14:11	Psychological treatment services—Psychological
0.1.1.0	evaluations
§ 14:12	—Psychological testing
§ 14:13	— — The Minnesota Multiphasic Personality
	Inventory, Second Revision (MMPI-2)
§ 14:14	— — — Understanding the computer report
§ 14:15	———The four validity scales
§ 14:16	———The 10 clinical scales:
§ 14:17	——Depression scales and pain inventories
§ 14:18	Psychotherapy and counseling
§ 14:19	Best-talking therapy
§ 14:20	Management of chronic pain
§ 14:21	Glossary of terms
§ 14:22	Post concussion syndrome & mild traumatic brain injury: the new evidence

CHAPTER 15. CLOSED HEAD TRAUMA BRAIN INJURY CLAIMS ASSESSMENT AND PROCESSING

§ 15:1	Introduction
§ 15:2	The state of the science of brain function
§ 15:3	Framing assessment of the brain injury claim
§ 15:4	—Mechanisms of brain damage
§ 15:5	—The baseline dilemma
§ 15:6	—Competing explanations for reported symptoms
§ 15:7	Fundamentals of neuroanatomy
§ 15:8	Fundamentals of brain injury assessment
§ 15:9	—Neurology
§ 15:10	8 8
§ 15:11	—Neuropsychology
§ 15:12	—Rehabilitation medicine
§ 15:13	—Special assessment problems: young and old
§ 15:14	—Cultural differences
§ 15:15	—Convergence of measures and evidence
§ 15:16	—Commonly encountered neuropsychological tests
§ 15:17	Postconcussive syndrome
§ 15:18	The malingering defense
§ 15:19	A plan for prelitigation discovery
§ 15:20	Assessing the value of a brain injury claim
§ 15:21	Litigation strategy
§ 15:22	Presenting the brain injury case at trial and arbitration
§ 15:23	Desk reference materials for brain injury cases

APPENDIX

Appendix A. Guide to the Investigation of Automobile

Liability and Uninsured/Underinsured Motorist Claims

Table of Laws and Rules
Table of Cases
Index