

# Table of Contents

## **CHAPTER 1. THE CLAIM ADJUSTING OCCUPATION—EMPLOYMENT, ETHICS AND RELATIONSHIPS**

### **I. THE PROFESSIONAL VOCATION OF CLAIMS AND LOSS ADJUSTING**

- § 1:1 In general
- § 1:2 Types of adjusters and claim department structure
- § 1:3 Criteria for professionalism
- § 1:4 Education vs. training
- § 1:5 The Ever-changing role of the adjuster and the claims department
- § 1:6 The relationship of the adjuster to other professionals

### **II. PROCEDURES PERFORMED BY ADJUSTERS**

- § 1:7 Investigation
- § 1:8 Evaluation and reporting
- § 1:9 Negotiation and settlement
- § 1:10 Litigation management
- § 1:11 The adjuster's role in underwriting and risk management

### **III. THE ETHICS OF ADJUSTING**

- § 1:12 Historical perspective
- § 1:13 Integrity and ethics, conflict of interest
- § 1:14 Unfair claims settlement practice acts and traditional ethics
- § 1:15 A claim representative's requirement of good faith and fair dealing
- § 1:16 Responsibility and action
- § 1:17 Privacy as an ethical issue

### **IV. HUMAN RELATIONS AND THE CLAIMS ENVIRONMENT**

- § 1:18 Insurance and society
- § 1:19 Attitudes toward those who suffer a loss
- § 1:20 Understanding interpersonal relationships
- § 1:21 Protocol in dealing with foreign witnesses or recent immigrants

- § 1:22 National disaster programs
- § 1:23 Adjuster safety
- § 1:24 Responsibilities of adjuster to insureds and third parties
- § 1:24.50 Job security and software development in the claims adjusting vocation

## **V. NEW METHODS OF CLAIMS ACCOUNTING**

- § 1:25 Blockchain accounting
- § 1:26 The changing role of claims adjusting
- § 1:27 The relationship of adjusters and attorneys

## **CHAPTER 2. CASUALTY INSURANCE**

- § 2:1 Kinds of insurance
- § 2:2 State regulation and control
- § 2:3 Major subdivisions of an insurance company
- § 2:4 Five kinds of carriers
- § 2:5 The agent and his authority
- § 2:6 The policy contract
- § 2:7 The four parts of a standard casualty policy
- § 2:8 Indemnity contracts
- § 2:9 Endorsements
- § 2:10 Binders
- § 2:11 Primary and excess insurance
- § 2:12 Self-insurance
- § 2:13 Financial structure and role of reserves in insurance
- § 2:14 Marketing of insurance in the 21st century and attitudes of insureds and claimants toward insurance
- § 2:15 Resolving insurance-related disputes
- § 2:16 Researching coverage issues
- § 2:17 Automation in the insurance industry
- § 2:18 Liability of agents and brokers for errors
- § 2:19 Relationship between commercial insured and broker
- § 2:20 Duties of an insurance company
- § 2:21 The “trigger” issue in liability insurance
- § 2:22 Insolvent insurers

## **CHAPTER 3. PRINCIPLES OF INVESTIGATION**

- § 3:1 Purpose of claim investigation
- § 3:2 The order of investigation and related hazards
- § 3:3 Timing the investigation
- § 3:4 “Fast-track” investigation
- § 3:5 Determining the need for detailed investigation
- § 3:6 Planning the investigation

## TABLE OF CONTENTS

- § 3:7 Contacts with the insured
- § 3:8 Contacts with the third-party claimant or attorney
- § 3:9 Contacts with witnesses
- § 3:10 Attitudes and approaches to interviewing
- § 3:11 Securing other documentation and evidence
- § 3:12 Preservation of evidence—Spoliation of evidence
- § 3:13 Use of outside investigators and services
- § 3:14 Use of the internet and computer services
- § 3:15 Investigating a complicated claim
- § 3:16 Investigating a fatality
- § 3:17 Finding experts in a serious claim
- § 3:18 Confidentiality of investigation
- § 3:19 Organizing the results
- § 3:20 Bad-faith failure to properly investigate
- § 3:21 Protecting documentation in the Cyber Age

## **CHAPTER 4. DOCUMENTATION OF EVIDENCE: REPORTS, STATEMENTS, DISCOVERY**

- § 4:1 Purpose of documenting evidence
- § 4:2 Reports and documents
- § 4:3 Purpose of interviews and statements
- § 4:4 Types of statements
- § 4:5 Special situations
- § 4:6 Preparing to obtain a statement
- § 4:7 Placing the interviewee at ease
- § 4:8 Importance of diagrams, photos and other tools
- § 4:9 Obtaining a written narrative statement
- § 4:10 Rules for recorded statements
- § 4:11 Rules for court reporter statements
- § 4:12 Preservation of evidence—Spoliation of evidence
- § 4:13 Discovery in litigation
- § 4:14 Depositions
- § 4:15 Admissibility of electronic data in litigation
- § 4:16 Videos and closed-circuit cameras

## **CHAPTER 5. SECURING THE PHYSICAL FACTS**

### **I. IN GENERAL**

- § 5:1 Diagrams
- § 5:2 Photographs
- § 5:3 Videos or films
- § 5:4 Surveys and plats
- § 5:5 Advertising catalogs and instructional material

- § 5:6 Laboratory testing
- § 5:7 Preliminary hearings
- § 5:8 Company engineering department
- § 5:9 Choosing an expert

## **II. RECORDS**

- § 5:10 Weather reports
- § 5:11 Police reports
- § 5:12 Motor vehicle records
- § 5:13 —Driving records
- § 5:14 Birth, death, and marriage certificates
- § 5:15 Coroner's report
- § 5:16 Autopsy report
- § 5:17 School records and information
- § 5:18 Income tax reports
- § 5:19 Military records
- § 5:20 Civil Aeronautics Board reports
- § 5:21 Newspaper reports
- § 5:22 Fire Department, OSHA, EPA, and other reports
- § 5:23 Computerized records
- § 5:24 Preservation of evidence by the investigator

## **III. SOCIAL MEDIA**

- § 5:25 Obtaining evidence from social media

### **Bibliography**

## **CHAPTER 6. MEDICAL ASPECTS OF CASUALTY INSURANCE**

### **I. GENERALLY**

- § 6:1 In general

### **II. THE ROLE OF INSURANCE IN ADDRESSING INJURY AND DISEASES**

- § 6:2 Types of casualty insurance dealing with injuries or diseases
- § 6:3 Definitions of covered claims and restrictions on such claims
- § 6:4 The claim process—Insured and insurer duties in first party claims
- § 6:5 Insurer's rights when dealing with a third party claim
- § 6:6 Limitations and rights in an employment-related third party claim
- § 6:7 Relationship of the insurer to the medical provider

TABLE OF CONTENTS

**III. INTERRELATIONSHIP OF INSURER, INSURED OR THIRD PARTY AND THE MEDICAL PROVIDER IN CLAIMS AND LITIGATION**

- § 6:8 Role of the medical provider
- § 6:9 Selection and control of the medical provider
- § 6:10 Medical liens in settlements and judgments
- § 6:11 Medical cost containment in casualty claims and litigation
- § 6:12 Importance of medical records
- § 6:13 Aspects of future medical requirements in settled injury claims

**IV. THE FUNDAMENTALS OF MEDICINE AS RELATED TO CASUALTY CLAIMS**

- § 6:14 Medical terminology relating to trauma
- § 6:15 Human anatomy as affected by trauma
- § 6:16 The various branches of medicine most likely involved in claims
- § 6:17 Alternatives to medical treatment and surgery
- § 6:18 Types of alternative medical treatments
- § 6:19 Transportation of the injured
- § 6:20 Prosthetic Devices and Technical Aids

**CHAPTER 7. OBTAINING MEDICAL INFORMATION, SELECTING MEDICAL EXPERTS, AND THE ROLE OF MANAGED CARE IN CASUALTY INSURANCE CLAIMS**

**I. MEDICAL INFORMATION AND PRIVACY**

- § 7:1 In general
- § 7:2 The need for medical authorizations and the privacy issue
- § 7:3 Compliance with HIPAA regulations
- § 7:4 Obtaining dental or physician medical reports
- § 7:5 Obtaining hospital records
- § 7:6 Obtaining medical billing records
- § 7:7 Other types of records—Military records, prior medical records
- § 7:8 Autopsies and coroner reports
- § 7:9 Prior injury records
- § 7:10 Evaluating the medical file—Creating a “timeline”
- § 7:11 Sorting out the “covered” from the “uncovered” injury and treatment
- § 7:12 Reporting of medical information

## **II. INDEPENDENT MEDICAL EXAMINATIONS: THE PHYSICIAN AS EXPERT**

- § 7:13 Purpose of an Independent Medical Examination (IME)
- § 7:14 Selecting an examining physician or expert
- § 7:15 Matching the specialty to the situation
- § 7:16 Arranging for the examination
- § 7:17 Preparing the examining physician
- § 7:18 Receiving the report and follow-up
- § 7:19 Using an IME to best advantage
- § 7:20 Other IME factors

## **III. THE ROLE OF MANAGED CARE IN THE TRADITIONAL CASUALTY CLAIM SETTING**

- § 7:21 Medical bill auditing
- § 7:22 Utilization review, pre-certification of treatment
- § 7:23 Medical case management
- § 7:24 Other medical cost containment procedures
- § 7:25 Traditional patient selected medical care and its abuses

## **IV. ASPECTS OF MEDICAL AND HOSPITAL MALPRACTICE AFFECTING CASUALTY CLAIMS**

- § 7:26 Auditing of managed care services for quality
- § 7:27 Maintaining a subrogable right of recovery
- § 7:28 Pursuing subrogation
- § 7:29 Off-label drug and device promotion

# **CHAPTER 8. DESCRIPTION, DIAGNOSIS, PROGNOSIS AND TREATMENT FOR SPECIFIC TYPES OF INJURIES AND DISEASES**

## **I. IN GENERAL**

- § 8:1 Injury information

## **II. MUSCULAR-SKELETAL SYSTEMS**

- § 8:2 Human bone and muscle structure
- § 8:3 Types and combinations of fractures
- § 8:4 Fractures designated by location or type
- § 8:5 Diagnosis, reduction and prognosis of fractures
- § 8:6 Cranial and nasal fractures

## TABLE OF CONTENTS

- § 8:7 Spinal fractures
- § 8:8 Ruptured or herniated discs
- § 8:9 Sprains and strains
- § 8:10 Torn or strained muscles
- § 8:11 Knee and elbow injuries
- § 8:12 Torn rotator cuff or meniscus
- § 8:13 Dislocations and other joint injuries
- § 8:14 Role of arthritis in evaluating “injury”
- § 8:15 Congenital or preexisting conditions
- § 8:16 “Chronic Backache Syndrome” prognosis and psychogenic injury
- § 8:17 Blunt trauma such as gunshot or knife wounds

### **III. INJURIES TO THE SKIN**

- § 8:18 Types of wounds and their repair
- § 8:19 Burns
- § 8:20 Assessing the need for plastic surgery

### **IV. INJURIES TO THE NERVOUS SYSTEM**

- § 8:21 Description of the human nervous system
- § 8:22 Injuries to the brain (concussions)
- § 8:23 Spinal cord injuries
- § 8:24 Role of the nervous system as related to pain
- § 8:25 Chronic Pain Syndrome
- § 8:26 Organic causes of pain
- § 8:27 Cumulative trauma, repetitive motion and Carpal Tunnel Syndrome
- § 8:28 Neurological repair
- § 8:29 Paralysis

### **V. OTHER TYPES OF INJURIES AND DISEASES ENCOUNTERED IN CASUALTY CLAIMS**

- § 8:30 In general
- § 8:31 Phlebitis
- § 8:32 Understanding the cardiovascular system
- § 8:33 Heart attacks—Diagnosis, prognosis and treatment
- § 8:34 Relationship of “stress” to physical disease
- § 8:35 Malingering, exaggeration of symptoms, Factitious Syndrome
- § 8:36 Drug addition and alcoholism, over-reliance upon pain medications, addictions
- § 8:37 Pulmonary injuries and diseases, punctured lungs
- § 8:38 Asbestosis, black lung disease, and similar environmental pulmonary diseases
- § 8:39 Eye injuries

- § 8:40 Injuries to hearing
- § 8:41 Food poisoning, contaminated drinking water diseases
- § 8:42 Allergies, including allergies to insects or animals
- § 8:43 Hernias
- § 8:44 Tumors: Benign and malignant
- § 8:45 Hepatitis and other blood-related diseases
- § 8:46 Dental injuries, misdiagnosis of “TMJ”
- § 8:47 Exposures of medical personnel to diseases
- § 8:48 Sick Building Syndrome and related chemical exposures
- § 8:49 Injuries from animals

## **VI. DIAGNOSTIC PROCEDURES**

- § 8:50 In general
- § 8:51 Angiography, angioplasty
- § 8:52 Intubation and endoscopic examination
- § 8:53 Laparoscopic examination
- § 8:54 Myelogram
- § 8:55 Electromyogram
- § 8:56 Arthroscopy
- § 8:57 Nerve conduction study
- § 8:58 Bone scan
- § 8:59 Other invasive techniques
- § 8:60 X-Rays
- § 8:61 Computerized tomography
- § 8:62 Magnetic Resonance Imaging
- § 8:63 Ultrasound
- § 8:64 Other non-invasive techniques
- § 8:65 Medical prescriptions encountered in casualty claims
- § 8:66 Genetic testing and common workers compensation injuries
- § 8:67 DNA Testing

## **CHAPTER 9. GENERAL PRINCIPLES OF LAW—PART I**

### **I. BASICS OF AMERICAN JURISPRUDENCE**

- § 9:1 The “common” or case law
- § 9:2 Statutory law
- § 9:3 The adversarial system
- § 9:4 The ‘tripartite’ defense arrangement and the contingency system

### **II. PRINCIPLES OF TORT LAW**

- § 9:5 Basics of tort law—The law of negligence
- § 9:6 Duty owed and proximate cause

## TABLE OF CONTENTS

- § 9:7 Defenses of contributory or comparative negligence
- § 9:8 Other defenses, including Statutes of Limitations
- § 9:9 Factors that affect liability (including Attractive Nuisance Doctrine)
- § 9:10 Strict and absolute liability
- § 9:11 Gross negligence
- § 9:12 Multiple defendants, including joint and several liability rules

### III. LITIGATION

- § 9:13 Jurisdiction and venue issues
- § 9:14 State and federal courts
- § 9:15 How legal doctrines change—Judicial and legislative modifications
- § 9:16 Understanding case law
- § 9:17 Litigation response
- § 9:18 Tort reform legislation
- § 9:19 Principles of subrogation
- § 9:20 Terminology, statutes of limitations, and other laws by state
- § 9:21 Statutes of limitations and defaults
- § 9:22 The Tripartite Relationship

## CHAPTER 10. GENERAL PRINCIPLES OF LAW-PART II

### I. CONFLICT OF LAWS

- § 10:1 Generally
- § 10:2 Lex loci delicti rule
- § 10:3 Best interests rule

### II. CONTRACTS

- § 10:4 In general
- § 10:5 General principles of contract law
- § 10:6 Hold harmless agreements
- § 10:7 Exculpatory contracts
- § 10:8 Effect of contractual requirements or limitations on insurance
- § 10:8.50 Reformation

### III. DAMAGES

- § 10:9 In general
- § 10:10 Special damages
- § 10:11 Property damage

- § 10:12 Bodily injury damages
- § 10:13 Compensatory damages
- § 10:14 Consequential damages
- § 10:15 Exemplary or punitive damages
- § 10:16 Constitutionality of punitive damages
- § 10:17 Vicarious liability for punitive damages
- § 10:18 Collateral source rule
- § 10:19 Loss of consortium
- § 10:20 Actions for wrongful death and survival rights
- § 10:21 Joint tortfeasors liability for damages
- § 10:22 Recovery over
- § 10:23 Emotional distress
- § 10:24 Hedonic damages

#### **IV. EVIDENCE**

- § 10:25 Generally
- § 10:26 Classifications of evidence
- § 10:27 —Hearsay evidence
- § 10:28 —Res gestae
- § 10:29 —Judicial notice
- § 10:30 Burden of proof
- § 10:31 Best evidence rule
- § 10:32 Opinion versus fact
- § 10:33 Res ipsa loquitur
- § 10:34 Competency of non-expert witnesses
- § 10:35 Privileged communications
- § 10:36 Expert testimony
- § 10:36.50 Lay witness testimony
- § 10:37 Spoliation of evidence

#### **V. AGENCY**

- § 10:38 Imputed negligence (respondeat superior)
- § 10:39 Determination of agent's negligence
- § 10:40 —Sub-agency
- § 10:41 —Temporary or special employee
- § 10:42 —Deviation
- § 10:43 —Joint venture agency liability
- § 10:44 Implied agency created by statute
- § 10:45 Family Purpose Doctrine
- § 10:46 Independent contractor

#### **VI. BAILMENTS**

- § 10:47 Generally
- § 10:48 Kinds of bailments
- § 10:49 —Custody versus bailment

## TABLE OF CONTENTS

- § 10:50 —Rental versus bailment
- § 10:51 —Theft versus bailment
- § 10:52 Acts of employees
- § 10:53 Contributory or comparative negligence as a defense
- § 10:54 Particular bailments

## VII. DISCOVERY

- § 10:55 Discovery in litigation
- § 10:56 Interrogatories
- § 10:57 Depositions
- § 10:58 —Examination under oath
- § 10:59 Work product exception
- § 10:60 Mandatory disclosure under the Federal Act
- § 10:61 Attorney-client privilege

## VIII. OTHER MATTERS

- § 10:62 Statutory matters
- § 10:63 Independent adjusters
- § 10:64 Trial bifurcation

## CHAPTER 11. INTRAFAMILY TORT RELATIONSHIPS AND IMMUNITIES

### I. IN GENERAL

- § 11:1 Minor children
- § 11:2 Parental liability for the torts of children
- § 11:3 Child's right of action for wrongful life
- § 11:4 Parent-child tortious relationship

### II. THE DOCTRINES OF PARENTAL AND SPOUSAL IMMUNITIES

- § 11:5 History and background
- § 11:6 Parental immunity doctrine still effective
- § 11:7 —Fraud, collusion, and insurance as factors
- § 11:8 —Effect of insurance
- § 11:9 Abolition and curtailment of the parental immunity doctrine
- § 11:10 Emancipation
- § 11:11 Effect of the death of either party
- § 11:12 Intentional, willful, and wanton torts
- § 11:13 Gross negligence and drunken driving, effect of drugs, texting

### III. HUSBAND/WIFE IMMUNITY DOCTRINE

- § 11:14 Historical background

- § 11:15 Married women acts
- § 11:16 Present trends abrogating husband/wife immunity

#### **IV. PRENATAL INJURY**

- § 11:17 Introduction
- § 11:18 Early decisions
- § 11:19 —The restriction of viability
- § 11:20 —When fetus is “quick”
- § 11:21 —“At time of conception”
- § 11:22 Right to recover for death of stillborn child
- § 11:23 —Recovery limited to pecuniary loss
- § 11:24 —Right of action for child born alive may be time limited
- § 11:25 Requirement of viability in death caused by prenatal injury

#### **Bibliography**

### **CHAPTER 12. GOVERNMENTAL AND CHARITABLE IMMUNITIES**

#### **I. GOVERNMENTAL IMMUNITY**

- § 12:1 History and introduction
- § 12:2 Federal immunities
- § 12:3 —Absolute immunity—Judicial and legislative
- § 12:4 State and municipal immunities
- § 12:5 Municipal liability for police misconduct
- § 12:6 “Governmental” or “planning” acts and quasi-immunities
- § 12:7 Riots and civil disturbances
- § 12:8 Ministerial or proprietary acts versus governmental acts
- § 12:9 Defense of discretionary acts
- § 12:10 Municipal liability under sec. 1983
- § 12:11 Punitive damages in governmental immunity cases

#### **II. EFFECT OF INSURANCE COVERAGE ON IMMUNITY**

- § 12:12 Generally

#### **III. THE DOCTRINE OF CHARITABLE IMMUNITY**

- § 12:13 Generally
- § 12:14 “Good samaritan” statutes (*see also* Chapter 35.)
- § 12:15 Effect of insurance coverage on the charitable immunity doctrine

TABLE OF CONTENTS

**IV. HANDLING LIABILITY CLAIMS FOR  
GOVERNMENTAL AGENCIES, INSTITUTIONS,  
AND SCHOOLS**

- § 12:16 Investigation of the statutes
- § 12:17 Investigation of the coverage
- § 12:18 Contractual investigation
- § 12:19 Investigation of the liability
- § 12:20 Investigation of the damages
- § 12:21 Finalizing settlement
- § 12:22 Special situations involving schools
- § 12:23 Claim situations involving American Indian  
Reservations

**Bibliography**

**CHAPTER 13. SUITS—PRACTICE AND  
PROCEDURE**

- § 13:1 The courts and their jurisdictions
- § 13:2 —State and local courts
- § 13:3 —Federal courts of appeal
- § 13:4 —Removal of cases to federal court
- § 13:5 Service of process
- § 13:6 —Waiver of proper service
- § 13:7 —Long arm statutes
- § 13:8 Change of venue
- § 13:9 Pleadings
- § 13:10 Insurance policy as evidence
- § 13:10.50 Insurance claim file as evidence
- § 13:11 Trial
- § 13:12 Appeal
- § 13:13 Liens
- § 13:14 Costs—Determination of award
- § 13:15 Claim department and defense counsel action
- § 13:16 Excess ad damnum
- § 13:17 Contingent fees
- § 13:18 Advertising
- § 13:19 Confidentiality & Privilege

**CHAPTER 14. PRACTICAL  
CONSIDERATIONS OF SUITS AND  
CASUALTY LITIGATION**

**I. UNDERSTANDING INSURANCE LITIGATION**

- § 14:1 Insurance law
- § 14:2 Legal expenses

## **II. DEALING WITH DEFENSE COUNSEL**

### **A. INSURANCE CLAIM DEFENSE SUPERVISION**

- § 14:3 Controlling defense
- § 14:4 Checklist in defense counsel relationships

### **B. SETTLEMENT REEVALUATION**

- § 14:5 Claim evaluation
- § 14:6 Defense counsel's review
- § 14:7 Claim manager's or supervisor's review

### **C. WAIVER AND ESTOPPEL**

- § 14:8 Waiver and estoppel
- § 14:9 Reservation of rights
- § 14:10 Unilateral instrument
- § 14:11 Receipt of letter
- § 14:12 Reservation letter versus written agreement
- § 14:13 Reasonable time limitation
- § 14:14 Reservation must be specific
- § 14:15 Reservation must be plain and unambiguous
- § 14:16 Notification to plaintiff or claimant
- § 14:17 Omnibus insured
- § 14:18 Primary versus excess insurer conflicts
- § 14:19 Withdrawal from defense
- § 14:20 Insured's right to hire own counsel at insurer's expense
- § 14:21 Settlement by insured
- § 14:22 Declaratory judgment actions
- § 14:23 Permissive and discretionary
- § 14:24 Questions of fact versus coverage
- § 14:25 Conflict of interests
- § 14:26 Reasonable timing
- § 14:27 Effect of nonwaiver agreement
- § 14:28 Attorney's fees
- § 14:29 Multiple insureds
- § 14:30 Interpleaders
- § 14:31 Paying policy limits into the court
- § 14:32 Counterclaim actions and settlements
- § 14:33 Compulsory counterclaim rule
- § 14:34 Counterclaim made subsequent to settlement
- § 14:35 Advice to insured regarding counterclaim
- § 14:36 Intervention

### **D. LITIGATION**

- § 14:37 Availability of witnesses

## TABLE OF CONTENTS

- § 14:38 Trial preparation
- § 14:39 Trial and disposition
- § 14:40 Appeal
- § 14:41 Checklist for suit preparation

### III. LAW REPORTING SYSTEMS

- § 14:42 State and regional law reports
- § 14:43 Online computer systems

### IV. ALTERNATIVE DISPUTE RESOLUTION (A.D.R.)

- § 14:44 Alternatives to litigation
- § 14:45 Arbitration or mediation
- § 14:46 Minitrials

### V. LITIGATION MANAGEMENT

- § 14:47 Litigation management as the role of the claims representative
- § 14:48 Litigation of casualty insurance claims
- § 14:49 Selection of which claims to litigate
- § 14:50 Selection of counsel
- § 14:51 Selection of venue
- § 14:52 Negotiation of defense fees
- § 14:53 Conducting discovery
- § 14:54 Selection of experts
- § 14:55 Demands and offers
- § 14:56 Coverage issues
- § 14:57 Status and pretrial reports
- § 14:58 Use of trial and jury consultants
- § 14:59 Billing and auditing of legal expenses
- § 14:60 Preparing for the possibility of an excessively high verdict
- § 14:61 Preparing for an appeal

#### Bibliography

## CHAPTER 15. FRAUD

- § 15:1 Fraud by the claimant concerning the facts of an accident
- § 15:2 Fraud regarding allegations of injury
- § 15:3 Fraud practiced by repairmen or doctors without collusion by the claimant
- § 15:4 Fraudulent Acts of an insured
- § 15:5 Beware of danger signals
- § 15:6 Investigation of claims involving fraud
- § 15:7 —Undercover investigations
- § 15:8 —Index bureaus

- § 15:9 Medical fraud and psychosomatic illness
- § 15:10 Medical billing fraud
- § 15:11 Medical fraud—Overtreatment and incompetence
- § 15:12 — —Misused medical terminology
- § 15:13 — —Iatrogeny (imagined symptoms)
- § 15:14 Exercising caution in investigation of insurance fraud
- § 15:15 Fraud training
- § 15:16 Anti-fraud statutes
- § 15:17 Innocent coinsureds and reverse bad faith
- § 15:18 Workers compensation fraud
- § 15:19 Technology and fraud detection
- § 15:20 Fraudulent releases
- § 15:21 Using policy conditions to fight fraud
- § 15:22 Insurer Fraud Reporting Immunity

## **CHAPTER 16. CLAIMS—RESERVES, RESERVING, AND STATISTICS**

- § 16:1 What are reserves?
- § 16:2 Various types of claims reserves
- § 16:3 —Unearned premium reserves
- § 16:4 —Incurred but not reported reserves (IBNR)
- § 16:5 —Actual claim reserves
- § 16:6 —Expense reserves
- § 16:7 —One-shot cases
- § 16:8 —Delayed reserving system
- § 16:9 Importance of prompt reserving
- § 16:10 —Automobile and general liability claim reserving
- § 16:11 —Liability suit reserving
- § 16:12 —Fatal cases reserving
- § 16:13 —Property damage claims reserving
- § 16:14 —Workers' compensation cases reserving
- § 16:15 Reserve revisions
- § 16:16 Claim inventory or reserve reconciliation
- § 16:17 Reducing outstanding reserves
- § 16:18 Additional factors to consider in reserving policy
- § 16:19 Admissibility of reserves in evidence
- § 16:20 Claim statistics
- § 16:21 Claim department responsibility
- § 16:22 —Claims
- § 16:23 —Suits
- § 16:24 —Average reserves
- § 16:25 —Claim expenses
- § 16:26 —Settlement figures
- § 16:27 —Statistical forms
- § 16:28 The age of the computer
- § 16:29 Discovery of reserves

## TABLE OF CONTENTS

- § 16:30 Self-insured claim reserves
- § 16:31 Effect of changing medical services on injury reserves
- § 16:32 Self-insured claim reserve auditing

### **Bibliography**

## **CHAPTER 17. SETTLEMENTS AND SETTLEMENT NEGOTIATIONS**

### **I. OVERVIEW**

- § 17:1 Introduction
- § 17:2 First-call settlements
- § 17:3 General rules concerning settlements
- § 17:4 —Demands made after settlement
- § 17:5 —Protecting medical bills
- § 17:6 —Dealing with the claimant’s attorney
- § 17:7 Evaluating bodily injury claims
- § 17:8 Factors to be considered in evaluating the injury claim
- § 17:9 Establishing a settlement range
- § 17:10 Decisions concerning evaluation
- § 17:11 Control
- § 17:12 —Maintaining control of death cases
- § 17:13 The proper approach to settlement negotiations
- § 17:14 Offer versus demand
- § 17:15 Obtaining the release
- § 17:16 Negotiating with attorneys

### **II. DISPOSITION OF INJURY CLAIMS INVOLVING MINORS**

- § 17:17 Generally
- § 17:18 Medical information
- § 17:19 Indemnification release
- § 17:20 Investigation
- § 17:21 Emancipated child
- § 17:22 Settlement with court approval
- § 17:23 Closing records
- § 17:24 Claim handling—Deductible or self insured

### **III. ADVANCE PAYMENTS**

- § 17:25 Generally
- § 17:26 Advantages
- § 17:27 Choosing the cases
- § 17:28 Some reasonable limitations
- § 17:29 Method of payment

- § 17:30 Admission of liability
- § 17:31 Written permission to settle
- § 17:32 Statute of limitations
- § 17:33 Follow-up
- § 17:34 Closing the case
- § 17:35 Some legal aspects of making advance payments

#### **IV. STRUCTURED SETTLEMENTS**

- § 17:36 Introduction
- § 17:37 Tax considerations
- § 17:38 Legal aspects
- § 17:39 Model structured settlement act
- § 17:40 Workers' compensation cases

#### **V. POSITIVE SETTLEMENT NEGOTIATIONS**

- § 17:41 Generally
- § 17:42 Medical and other liens
- § 17:43 Tax legislation and its effect on settlements
- § 17:44 Computerized settlement negotiations
- § 17:45 Use of checkbooks and debit cards
- § 17:46 Policy limit payment and court allocation of available coverage limits
- § 17:47 Conflict resolution
- § 17:48 Litigation settlement in the 21st century
- § 17:49 Demands in "Cash" money

#### **Bibliography**

### **CHAPTER 18. RELEASES**

- § 18:1 New developments
- § 18:2 Contractual aspects
- § 18:3 Release forms
- § 18:4 —Execution of release forms
- § 18:5 Fraud
- § 18:6 Indecent haste
- § 18:7 "Fairly and knowingly made"
- § 18:8 "In full satisfaction of all claims"
- § 18:9 Mistake concerning injuries or facts
- § 18:10 Respondeat superior
- § 18:11 Joint tortfeasors
- § 18:12 —Statutory enactment—Uniform Contribution Acts
- § 18:13 Releases in death claims
- § 18:14 Alleged subsequent malpractice by doctors
- § 18:15 Bad faith allegations to induce settlement
- § 18:16 —Assignment of insured's claim for bad faith
- § 18:17 Mary Carter Agreements

TABLE OF CONTENTS

- § 18:18 Laches
- § 18:19 Releases for policy limits

**Bibliography**

**CHAPTER 19. COVERAGE PROBLEMS**

- § 19:1 Typical coverage problems
- § 19:2 Importance of immediate investigation
- § 19:3 Disclaimer of coverage
- § 19:4 Reservation of rights
- § 19:5 —Wording of the Letter of Reservation
- § 19:6 Problems in the Expanding Cumis Doctrine
- § 19:7 Nonwaiver agreements
- § 19:8 Declaratory judgment actions
- § 19:9 Plain language policies
- § 19:10 The doctrine of reasonable expectations
- § 19:11 —Ambiguity in the policy provisions
- § 19:12 —Existing means for balancing the equities
- § 19:13 —Commercial policies
- § 19:14 Actions of the agent or adjuster creating estoppel
- § 19:15 Intentional acts barring coverage
- § 19:16 Direct action states
- § 19:17 The ‘guiding principles’ of overlapping coverages
- § 19:18 Insurance problems involving assignment of coverages
- § 19:19 Allocation of covered and non-covered claims

**Bibliography**

# Table of Contents

## CHAPTER 20. SOME IMPORTANT CASUALTY POLICY PROVISIONS

### I. ACCIDENT AND OCCURRENCE

- § 20:1 The concept of an “Occurrence”
- § 20:2 Self-defense
- § 20:3 Sexual molestation as an intentional act

### II. APPLICATION FOR INSURANCE

- § 20:4 Application process
- § 20:4.50 Duty to indemnify

### III. DUTIES OF THE INSURER

- § 20:5 Duty to defend
- § 20:6 Determination of insurer’s duty—Limits of liability
- § 20:7 Duty to appeal
- § 20:8 Personal auto policy supplemental liability coverages

### IV. NOTICE OF ACCIDENT OR OCCURRENCE

- § 20:9 Generally
- § 20:10 Prejudice
- § 20:11 Notice by others on behalf of the insured
- § 20:12 “As soon as practicable”
- § 20:13 Timely notice
- § 20:14 Written notice
- § 20:15 Disclaimer letter
- § 20:16 Investigation of delayed notice cases

### V. ASSISTANCE AND COOPERATION

- § 20:17 Settlement by the insured

### VI. COOPERATION

- § 20:18 Cooperation and other policy conditions
- § 20:19 Prejudice in cooperation cases
- § 20:20 Nonappearance at trial
- § 20:21 Statutory protection for injured claimants
- § 20:22 Defense against lack of cooperation

## **VII. “OTHER INSURANCE” AND OTHER CLAUSES**

§ 20:23 The “other insurance” clause

## **VIII. POLICY CANCELLATION**

- § 20:24 Cancellation
- § 20:25 Written notice of cancellation
- § 20:26 Cancellation because of nonpayment of premium
- § 20:27 Renewal of coverage
- § 20:28 The “ ‘known loss’ ” doctrine
- § 20:29 Rescission
- § 20:30 Subrogation

## **IX. ISSUES OUTSIDE THE REALM OF CASUALTY INSURANCE**

- § 20:31 Other issues
- § 20:32 Gun violence

# **CHAPTER 21. AWARDS OF PUNITIVE DAMAGES, THEORY OF INSURANCE BAD FAITH, AND STATE REGULATION**

## **I. INTRODUCTION TO PUNITIVE DAMAGES, BAD FAITH, AND STATE REGULATION**

- § 21:1 The concept of punitive or exemplary damages
- § 21:2 The concept of “full faith and fair dealing”
- § 21:3 Regulation of the insurance industry

## **II. PUNITIVE OR EXEMPLARY DAMAGE AWARDS**

- § 21:4 Punishment and public policy
- § 21:5 Fines, penalties, triple damages, and other types of punishments
- § 21:6 How punitive damages are awarded and taxed
- § 21:7 Limitations on punitive damages
- § 21:8 Vicarious liability for punitive damages
- § 21:9 Insurability of punitive damage awards
- § 21:10 Self-funding mechanisms and punitive damages
- § 21:10.50 The Stowers doctrine—Texas failure to settle

## **III. INSURANCE BAD FAITH**

- § 21:11 Original concept of insurance bad faith
- § 21:12 Duties of insured and insurer
- § 21:13 Conflict of interest within the ‘tripartite relationship’

## TABLE OF CONTENTS

§ 21:14	Duty to defend vs. duty to pay
§ 21:15	Keeping the insured informed
§ 21:16	Duty to other parties
§ 21:17	Good faith negotiations
§ 21:18	Insurer's duty when acting beyond scope of policy contract
§ 21:19	"First party" bad faith—Misinterpretation of policy
§ 21:20	Reverse bad faith—Insured's fraud or misrepresentation
§ 21:21	Prevention of excess verdicts and bad faith allegations
§ 21:22	Defenses to bad faith claims
§ 21:23	Assignment of insured's right of action
§ 21:23.50	Choice-of-Law in Bad Faith Claims

## IV. INSURANCE LEGISLATION AND REGULATION

§ 21:24	Insurance as commerce: state vs. federal regulation
§ 21:25	Insurance laws and regulatory agencies
§ 21:26	Licensing of insurer representatives
§ 21:27	State unfair claims settlement practice statutes

## V. RELATED INSURANCE FACTORS

§ 21:28	Guiding principles
§ 21:29	Role of nongovernmental insurance organizations
§ 21:30	Recent litigation involving bad faith issues
§ 21:31	Insurance Guaranty Funds

## CHAPTER 22. AUTOMOBILE POLICIES AND COVERAGES

### I. INTRODUCTION AND HISTORY OF AUTOMOBILE INSURANCE

§ 22:1	Introduction to automobile insurance
§ 22:2	History of the automobile liability policy
§ 22:3	Basic Auto Policy
§ 22:4	Family Auto Policy and the Personal Auto Policy
§ 22:5	"Lucid Language" Forms
§ 22:6	Rating and regulation of automobile insurance
§ 22:7	Legislation regarding auto insurance
§ 22:8	Universality of automobile insurance
§ 22:9	Attempts to reform auto insurance

### II. TYPES OF AUTOMOBILE INSURANCE

§ 22:10	Types of auto insurance companies
---------	-----------------------------------

- § 22:11 Personal and family use—The “Omnibus Clause”
- § 22:12 Business auto insurance
- § 22:13 Fleet coverages
- § 22:14 Trucking coverages
- § 22:15 Vehicles for hire or rent—Insuring rental or livery vehicles
- § 22:16 Auto repair and dealership coverages
- § 22:17 Foreign liability

### **III. PERSONAL AUTO POLICIES**

#### **A. IN GENERAL**

- § 22:18 The ISO “PAP” Form and individual packages
- § 22:19 Declarations
- § 22:20 When and where of coverage
- § 22:21 Limits of liability
- § 22:22 Deductibles
- § 22:23 Other rating factors
- § 22:24 Definitions
- § 22:25 Who is insured
- § 22:26 Trailers
- § 22:27 “Occupying”
- § 22:28 Coverage on other types of personal vehicles

#### **B. LIABILITY COVERAGE**

- § 22:29 The Insuring Agreement
- § 22:30 Bodily injury
- § 22:31 Property damage
- § 22:32 Covered persons and vehicles (the “Owned/Non-owned” and rental problem)
- § 22:33 Supplementary payments
- § 22:34 Exclusions
- § 22:35 Application of the Limits of Liability
- § 22:36 Coverage out of state
- § 22:37 Financial responsibility
- § 22:38 Other Insurance clause

#### **C. MEDICAL PAYMENT COVERAGE**

- § 22:39 Insuring agreement
- § 22:40 Who is covered
- § 22:41 Excluded loss
- § 22:42 Limits of liability, time limitations
- § 22:43 Other insurance
- § 22:44 Cooperation with the insurer

#### **D. UNINSURED MOTORIST COVERAGE**

- § 22:45 Reasons for financial responsibility laws

## TABLE OF CONTENTS

- § 22:46 Difference between uninsured and underinsured motorist coverage
- § 22:47 Insuring Agreement
- § 22:48 Definitions
- § 22:49 Exclusions
- § 22:50 Limits of liability
- § 22:51 The “stacking” problem
- § 22:52 Other insurance
- § 22:53 Arbitration
- § 22:53.50 Subrogation where tortfeasor’s liability insurer becomes insolvent

### E. COVERAGE FOR DAMAGE TO INSURED AUTO

- § 22:54 Difference between collision and loss “Other Than Collision”
- § 22:55 Coverage on “non-owned” vehicles, temporary substitutes
- § 22:56 Insuring Agreement
- § 22:57 Supplementary coverages including transportation
- § 22:58 Exclusions
- § 22:59 Limit of Liability
- § 22:60 Payment for loss and protection of insurable interests
- § 22:61 Determining amount of loss: role of the damage appraiser
- § 22:62 Resolving disputes—The “appraisal” process
- § 22:63 Subrogation
- § 22:64 The Nationwide Intercompany Arbitration Agreement
- § 22:65 Role of “Applicant” and “Respondent”
- § 22:66 Checklists for physical damage claims
- § 22:67 Coverage for damage to a rental vehicle
- § 22:68 Rental coverage add-on

### F. CONDITIONS AND ENDORSEMENTS

- § 22:69 Insured’s duty following an accident
- § 22:70 Issues regarding “notice”
- § 22:71 Issues regarding other “duties”
- § 22:72 Standard conditions
- § 22:73 Termination of coverage
- § 22:74 Transfer of interest
- § 22:75 Other Insurance clauses
- § 22:76 Special endorsements

## IV. “NO-FAULT” LAWS AND ADD-ONS

- § 22:77 Early attempts at auto reparations reform acts
- § 22:78 Basics of mandatory “No-Fault” plans

- § 22:79 States with such plans
- § 22:80 Variations on the plans—Applicability to property damage
- § 22:81 Add-on plans
- § 22:82 Tort “thresholds”
- § 22:83 Effect of “No-Fault” on other coverages
- § 22:84 Structure of the coverage

## **V. COMMERCIAL AUTO LIABILITY POLICIES**

- § 22:85 Difference between deductible insurance and self-insurance
- § 22:86 Business auto coverages and “symbols”
- § 22:87 The ISO Business Auto Policy
- § 22:88 Liability coverages for pollution
- § 22:89 Liability insuring agreements
- § 22:90 Physical damage coverages
- § 22:91 Uninsured/underinsured motorist coverages
- § 22:92 Business auto policy exclusions
- § 22:93 Cross liability and the “Additional Insured” endorsement
- § 22:94 Conditions and endorsements
- § 22:95 Reporting claims
- § 22:96 Other Insurance/Excess Insurance
- § 22:97 Garage Insurance
- § 22:98 Garagekeepers Legal Liability Insurance
- § 22:99 Trucker’s liability insurance
- § 22:99.50 Cars (and Aircraft) as Livery Vehicles
- § 22:100 The ‘Self-Driving’ Vehicle, Robotics and Artificial Intelligence
- § 22:101 Automobile coverage for “on demand” service

### **Bibliography**

## **CHAPTER 23. SOME LAWS APPLICABLE TO THE USE OF AUTOMOBILES**

### **I. GUEST STATUTES**

- § 23:1 Generally
- § 23:2 Checklist for investigation of guest statute cases

### **II. LIQUOR LAW LIABILITY**

- § 23:3 Generally
- § 23:4 Dram shop and liquor control statutes
- § 23:5 Exclusivity of dram shop legislation
- § 23:6 Recent trends

## TABLE OF CONTENTS

- § 23:7 Social hosts and company parties
- § 23:8 Uninvited guest
- § 23:9 Employer hosts
- § 23:10 Insurance coverage
- § 23:11 Minors or incompetent guests
- § 23:12 Common law defenses
- § 23:13 Non-innocent participant
- § 23:14 Intoxication defined
- § 23:15 Extraterritoriality in dram shop jurisdiction
- § 23:16 Suit by the intoxicated person
- § 23:17 Insurance coverage for liquor law liability
- § 23:18 Non-auto cases

### **III. OTHER PARTICULAR LAWS**

- § 23:19 Seat belt defense
- § 23:20 Helmet defense
- § 23:21 Negligent entrustment of a vehicle
- § 23:22 Vehicle safety

#### **Bibliography**

## **CHAPTER 24. PROTECTION AGAINST THE IRRESPONSIBLE MOTORIST**

### **I. IN GENERAL**

- § 24:1 Nature of irresponsibility
- § 24:2 Financial Responsibility Laws
- § 24:3 Auto insurance rating systems
- § 24:4 Assigned risk pool/joint underwriting associations
- § 24:5 Unsatisfied judgment laws
- § 24:6 Mandatory or compulsory insurance laws

### **II. UNINSURED AND UNDERINSURED MOTORIST COVERAGES**

- § 24:7 Understanding the coverage
- § 24:8 Recovery stacking
- § 24:9 Other interpretations of underinsured coverage
- § 24:10 Hit and run and phantom vehicles
- § 24:11 Limitations on insured's right to settle
- § 24:12 UM/UIM exclusions

### **III. INVESTIGATION OF UNINSURED/ UNDERINSURED MOTORIST CLAIMS**

- § 24:13 Identifying the covered parties

- § 24:14 Claim investigation and evaluation
- § 24:15 Preserving right of recovery against tortfeasor
- § 24:16 Using arbitration
- § 24:17 Coordination with other coverages
- § 24:18 Uninsured motorist property damage coverage

## **CHAPTER 25. AUTOMOBILE CLAIM INVESTIGATION IN THE 21ST CENTURY**

### **I. GENERALLY**

- § 25:1 Role of the automobile in modern society
- § 25:2 Trends in auto claim investigation
- § 25:3 Personal line claims
- § 25:4 Commercial line claims

### **II. THE MODERN AUTO CLAIMS DEPARTMENT**

- § 25:5 Auto claim department structure
- § 25:6 Trend toward paperless handling
- § 25:7 Data collection and use
- § 25:8 Outside investigation and use of outside resources
- § 25:9 “Fast track” handling
- § 25:10 Understanding and combating the mysterious low impact-questionable injury claim

### **III. INVESTIGATION OF THE SERIOUS AUTO ACCIDENT**

- § 25:11 Fatalities and serious injury accidents generally
- § 25:12 Defining and investigating the “serious” accident
- § 25:13 Reasons for detailed investigation, “black box” usage
- § 25:14 Identification of vehicle-related hazards contributing to accidents
- § 25:15 Driver impairment and distractions
- § 25:16 Driving conditions
- § 25:17 Common types of accidents

### **IV. INVESTIGATING LIABILITY, MEDICAL PAYMENTS, PIP, AND UNINSURED MOTORIST CLAIMS**

- § 25:18 Insured and vehicle identification
- § 25:19 Coverage issues
- § 25:20 Liability issues
- § 25:21 Dealing with the third party
- § 25:22 Handling third party property damage liability claims
- § 25:23 Handling third party or insured injury claims

## TABLE OF CONTENTS

### **V. HANDLING PHYSICAL DAMAGE CLAIMS**

- § 25:24 Vehicle identification and coverage issues
- § 25:25 Actual cash value, depreciation, and diminished value claims
- § 25:26 Salvage, towing, and loss of use
- § 25:27 Vehicle theft claims
- § 25:28 Vehicle damage appraisal
- § 25:29 Contract repair shops and use of “aftermarket” and used parts
- § 25:30 Total loss paperwork
- § 25:31 Documentation for subrogation, intercompany arbitration
- § 25:32 Tractor-trailer and heavy equipment claims
- § 25:33 Unusual factors involving alternative fuel vehicles
- § 25:34 Auto claims in the future

### **CHAPTER 26. PERSONAL & COMMERCIAL GENERAL LIABILITY COVERAGES**

#### **I. INTRODUCTION**

- § 26:1 Development of personal and public liability insurance
- § 26:2 Role of liability insurance in commercial risk management

#### **II. PERSONAL LIABILITY INSURANCE**

- § 26:3 Comprehensive Personal Liability Policy—Homeowners section II
- § 26:4 Persons and places insured
- § 26:5 Insuring agreements and defense issues
- § 26:6 Exclusions
- § 26:7 Conditions
- § 26:8 Premises medical payments
- § 26:9 Damage to property
- § 26:10 Common endorsements
- § 26:11 Problems arising out of CPL policies

#### **III. COMMERCIAL GENERAL LIABILITY POLICIES**

- § 26:12 Types and forms of marketing
- § 26:13 Combinations of forms
- § 26:14 “Occurrence” forms
- § 26:15 “Claims-Made” forms
- § 26:16 “General” liability and other types of commercial liability

- § 26:17 Limits: relationship of primary to excess and “umbrella” coverages
- § 26:17.50 Limits: Express limitation of coverage to officers or directors, but only with respect to their duties as officers or directors

#### **IV. BASICS OF PREMISES AND OPERATIONS COVERAGE**

- § 26:18 Bodily injury coverage
- § 26:19 Property damage coverage
- § 26:20 Definitions
- § 26:21 Conditions

#### **V. PRODUCTS AND COMPLETED OPERATIONS COVERAGES**

- § 26:22 Product coverage
- § 26:23 Completed operations coverage
- § 26:24 Owners & Contractors Protective Liability coverage
- § 26:25 Contractual liability and fire liability coverage

#### **VI. GENERAL EXCLUSIONS**

- § 26:26 Expected or intended injury
- § 26:27 Contractual liability
- § 26:28 Liquor liability
- § 26:29 Workers compensation and employers liability
- § 26:30 Pollution
- § 26:31 Aircraft, watercraft, and vehicles
- § 26:32 The “loading and unloading” issue
- § 26:33 Mobile equipment
- § 26:34 Care, custody, and control—The “bailment” issue
- § 26:35 Product and completed operation exclusions
- § 26:36 War, nuclear hazard, and other exclusions
- § 26:37 Professional services exclusion
- § 26:37.50 Bacteria exclusion

#### **VII. PERSONAL AND ADVERTISING INJURY LIABILITY**

- § 26:38 Personal injury perils
- § 26:39 Exclusions or other limitations
- § 26:40 Advertising injury
- § 26:40.50 Trade Secrets and Intellectual Property

#### **VIII. PERSONS AND TERRITORY INSURED**

- § 26:41 Places and parties defined in the policy

## TABLE OF CONTENTS

- § 26:42 Employees
- § 26:43 “Additional insureds”
- § 26:44 Problems arising out of “additional insured” situations

## **IX. PREMISES MEDICAL PAYMENTS COVERAGE**

- § 26:45 “Medical payments” insuring agreements
- § 26:46 Exclusions
- § 26:47 Conditions

## **X. SPECIAL ENDORSEMENTS**

- § 26:48 Endorsements extending coverage
- § 26:49 Endorsements limiting coverage
- § 26:49.50 Endorsements May Not Eliminate Occurrence Requirements

## **XI. ISSUES RELATING TO COMMERCIAL GENERAL LIABILITY COVERAGES**

- § 26:50 Premises and operations issues and investigation
- § 26:51 Notice of dangerous condition
- § 26:52 Landlord and tenant issues
- § 26:53 Negligent hiring, employee rage
- § 26:54 Liquor liability issues and investigation
- § 26:55 Construction “wrap-up” programs
- § 26:56 Construction and contractor liability cases
- § 26:57 Issues involving computer-related problems
- § 26:58 Products and completed operations issues and investigation
- § 26:59 Use of high deductibles in commercial liability coverages

## **XII. INVESTIGATING A PUBLIC LIABILITY POLICY COVERAGE ISSUE**

- § 26:60 The need for accurate coverage investigation and evaluation
- § 26:61 The “four corners” match-up and “eight corner rule”

## **XIII. OTHER PUBLIC LIABILITY POLICY COVERAGE ISSUES**

- § 26:62 Primary insurer’s duty to excess insurer
- § 26:63 Duties between pure self-insureds and multiple excess insurers
- § 26:64 Mergers and acquisitions
- § 26:65 Drones: a new liability peril

§ 26:66 Liability for Unmanned Aerial Systems—“Drones”

## **CHAPTER 27. “OCCURRENCE”**

- § 27:1 Introduction
- § 27:2 “Occurrence” is an “Accident”
- § 27:3 Manifestation theory
- § 27:4 Exposure theory
- § 27:5 Triple-trigger theory
- § 27:6 Injury in fact
- § 27:7 “Cause of Injury” determines number of occurrences
- § 27:8 Statute of limitations
- § 27:9 Stacking and proration
- § 27:10 Doctrine of reasonable expectations
- § 27:11 Neither expected nor intended from the standpoint of the insured
- § 27:12 Self-defense
- § 27:13 Negligent hiring
- § 27:14 Intentional acts

## **CHAPTER 28. INVESTIGATION OF PUBLIC OR GENERAL LIABILITY CLAIMS**

### **I. IN GENERAL**

- § 28:1 Generally
- § 28:2 General checklist for the investigation of public or general liability claims

### **II. CHECKLISTS FOR SPECIAL INVESTIGATIONS**

- § 28:3 Introduction
- § 28:4 Claims involving tenancy
- § 28:5 Sidewalk claims
- § 28:6 Waxed floors
- § 28:7 Stairways
- § 28:8 Falling objects
- § 28:9 Elevators
- § 28:10 Escalators
- § 28:11 Construction cases
- § 28:12 Sports events, fairgrounds, and amusement parks
- § 28:13 Sports injuries and sexual harassment
- § 28:14 Golfing accidents
- § 28:15 Animals
- § 28:16 Blasting operations

### **III. PROPERTY SECURITY**

- § 28:17 Generally

## TABLE OF CONTENTS

§ 28:18	Water jet ski and boating accidents
§ 28:19	Hotel slip and fall claims
§ 28:20	Interference with a business relationship
§ 28:21	Crisis management
§ 28:22	Dealing with the media in a crisis
§ 28:23	Security liability
§ 28:24	Food industry health liability claims
§ 28:25	Health club claims
§ 28:26	Leisure and entertainment industry liability exposures
§ 28:27	Resort, casino, and cruise ship claims
§ 28:28	Investigation of underground cave-in or enclosure collapse
§ 28:29	Entomologists and pest control
§ 28:30	Dry cleaners and laundries
§ 28:31	Landscapers and tree-removal activities
§ 28:32	Gun violence at academic institutions
§ 28:33	Commercial childcare
§ 28:34	Hydraulic fracturing
§ 28:35	Corn mazes
§ 28:36	Bullying as a tort

# Table of Contents

## CHAPTER 29. PRODUCTS LIABILITY

### I. IN GENERAL

- § 29:1 Coverage
- § 29:2 Products hazard—Defective workmanship
- § 29:3 Containers
- § 29:4 —Manufacturers of component parts
- § 29:5 Exclusions
- § 29:6 Limits of liability
- § 29:7 Territorial extension
- § 29:8 Persons insured
- § 29:9 Vendor’s endorsement
- § 29:10 Spoliation of evidence

### II. LEGAL ASPECTS OF PRODUCTS LIABILITY

- § 29:11 Generally
- § 29:12 Intervening acts

### III. SALES—BREACH OF WARRANTY

- § 29:13 Generally
- § 29:14 Express warranty (U.C.C. § 2-313)
- § 29:15 Merchantability and fitness for use
- § 29:16 Implied warranty—Merchantability code (U.C.C. § 3-316)
- § 29:17 —Fitness for particular purpose
- § 29:18 Multiple grounds for the same action
- § 29:19 Statute of limitations in warranty actions

### IV. STRICT LIABILITY IN PRODUCTS CASES

- § 29:20 Generally
- § 29:21 Liability of vendors or other suppliers
- § 29:22 Statutory enactments
- § 29:23 Insurance protection
- § 29:24 Electromagnetic fields and stray voltage (EMF)

### V. DESIGN DEFECTS

- § 29:25 Generally
- § 29:26 Unreasonably dangerous products

- § 29:27 Crashworthiness and second injury liability
- § 29:28 Seat belt defense—Crashworthiness
- § 29:29 Strict liability in design defect cases
- § 29:30 Open and obvious danger
- § 29:31 State-of-the-art defense
- § 29:32 Design alternatives
- § 29:33 Consumer expectation test
- § 29:34 Expert testimony

## **CHAPTER 30. PRODUCTS LIABILITY— DUTY TO WARN AND RECALL**

### **I. DUTY TO WARN**

- § 30:1 Generally
- § 30:2 Negligence and strict liability in duty to warn
- § 30:3 Foreseeability—Known or should have known
- § 30:4 Open and obvious condition
- § 30:5 Design defects
- § 30:6 Dangers that are common knowledge
- § 30:7 Adequacy of warning
- § 30:8 Proximate cause of injury
- § 30:9 To whom the duty is owed
- § 30:10 Alterations
- § 30:11 Component part
- § 30:12 Continuing duty to warn
- § 30:13 Continuing duty to warn in drug cases
- § 30:14 Method of warning in drug cases
- § 30:15 Drugs—Idiosyncratic side effects
- § 30:16 Postaccident warnings
- § 30:17 Preaccident governmental standards compliance
- § 30:18 Model act—Duty to warn
- § 30:19 Question of fact or law
- § 30:20 Handguns

### **II. RECALL**

- § 30:21 Generally
- § 30:22 Duty to recall
- § 30:23 Coverage from loss resulting from recall
- § 30:24 “Sistership” exclusion
- § 30:25 Recall letter
- § 30:26 Recall as a defense
- § 30:27 Assumption of risk in recall cases
- § 30:28 Admissibility in evidence of recall letter
- § 30:29 Punitive damages in recall cases

TABLE OF CONTENTS

**CHAPTER 31. PRODUCTS LIABILITY—  
SOME DEFENSES AND RELATED  
PROBLEMS**

**I. SOME PRODUCTS LIABILITY DEFENSES**

- § 31:1 Assumption of risk in products liability cases
- § 31:2 —Causal connection as a defense
- § 31:3 Comparative negligence
- § 31:4 Comparative negligence as a defense to strict liability
- § 31:5 Comparative causation
- § 31:6 State-of-the-art defense
- § 31:7 Agent Orange cases
- § 31:8 Crashworthiness of a vehicle

**II. USED, REBUILT, RECONDITIONED, OR  
ALTERED PRODUCTS**

- § 31:9 Generally
- § 31:10 Liability of manufacturer for reconditioned products
- § 31:11 Dealer preparation
- § 31:12 Assumption of risk
- § 31:13 Drugs and related products
- § 31:14 Duty to warn in prescription drug cases
- § 31:15 —The learned intermediary doctrine
- § 31:16 Hypersensitivity to certain drugs
- § 31:17 Premarketing testing
- § 31:18 Drug addiction
- § 31:19 Statutes of limitation in drug related cases
- § 31:20 Medical devices and instruments
- § 31:21 Products designed for illegal use
- § 31:22 —Handguns
- § 31:23 —Drug paraphernalia
- § 31:24 —Radar detection devices
- § 31:25 Subsequent modification or repair

**III. FEDERAL RULES OF EVIDENCE**

- § 31:26 Generally
- § 31:27 Superfund laws
- § 31:28 Expert witnesses

**IV. POSTSETTLEMENT PROBLEMS**

- § 31:29 Generally

**V. CHANGES IN STANDARDS**

- § 31:30 Generally

## **VI. “MARKET SHARE” LIABILITY AND SIMILAR THEORIES**

- § 31:31 Generally
- § 31:32 Asbestosis cases in market-share liability
- § 31:33 Market share—DES and other drugs and products
- § 31:34 Punitive damages in market-share cases

## **VII. SUCCESSOR CORPORATIONS**

- § 31:35 Generally
- § 31:36 Punitive damages against successor corporations

## **VIII. STATUTES OF LIMITATIONS OR REPOSE**

- § 31:37 Generally
- § 31:38 Statutes of repose
- § 31:39 Implantations or insertions

## **IX. SERVICE VERSUS PRODUCT**

- § 31:40 Generally

## **X. LONG-ARM STATUTES**

- § 31:41 Generally
- § 31:42 Product mass-tort class litigation

# **CHAPTER 32. INVESTIGATION OF PRODUCTS LIABILITY CLAIMS**

## **I. IN GENERAL**

- § 32:1 Generally
- § 32:2 Strict liability—Areas for investigation
- § 32:3 Products liability investigation—General checklist

## **II. PRODUCTS LIABILITY—SOME SPECIFIC INVESTIGATIONS CHECKLISTS**

- § 32:4 Automobiles
- § 32:5 Bottling claims
- § 32:6 Crop dusting
- § 32:7 Drugs and cosmetics
- § 32:8 Food consumption on premises of vendor
- § 32:9 Design defect cases
- § 32:10 Warning defects cases
- § 32:11 Altered products—Liability of original manufacturer
- § 32:12 Product recall

## TABLE OF CONTENTS

- § 32:13 Market share liability for fungible products
- § 32:14 Lead paint
- § 32:15 Latex allergy claims
- § 32:16 Automobile air bag injury claims
- § 32:17 “Hedonic” products and services
- § 32:18 Asbestos
- § 32:19 Self-administered medical screening/diagnostic tests and devices
- § 32:20 Exterior insulation and finish systems
- § 32:21 Miracle products and technology, fracking products
- § 32:22 Chinese drywall
- § 32:23 Infant products
- § 32:24 Diesel engines
- § 32:25 Three-dimensional printing
- § 32:26 Medical devices
- § 32:27 Trampolines
- § 32:28 Anhydrous ammonia and ammonium nitrate
- § 32:29 Doors and fire-resistant construction materials
- § 32:30 Marijuana or Cannabis

## **CHAPTER 33. PUNITIVE DAMAGES IN PRODUCTS LIABILITY CLAIMS**

- § 33:1 Multiple exposure
- § 33:2 First come, first served
- § 33:3 Justification for punitive damages
- § 33:4 Phraseology used in justifying punitive damage awards
- § 33:5 Compensatory damages as a prerequisite or guide
- § 33:6 Settlement of underlying suit
- § 33:7 Collateral estoppel
- § 33:8 Wrongful death statutes
- § 33:9 Strict liability
- § 33:10 Negligence as a basis for awarding punitive damages
- § 33:11 Breach of warranty
- § 33:12 Insurance for punitive damages
- § 33:13 Vicarious liability for punitive damages
- § 33:14 Amounts awarded—Model Uniform Products Liability Act
- § 33:15 Recent trends in punitive damages
- § 33:16 Punitive damages in arbitration
- § 33:17 Punitive damages in products liability cases

## **CHAPTER 34. ENVIRONMENTAL POLLUTION**

### **I. IN GENERAL**

- § 34:1 Introduction

- § 34:2 Class actions
- § 34:3 Mass tort litigation
- § 34:4 State rules
- § 34:5 Federal acts concerning pollution—CERCLA
- § 34:6 Grounds for bringing environmental pollution actions
- § 34:7 Statutes of limitation
- § 34:8 —Strict liability in hazardous waste cases
- § 34:9 Investigation of environmental pollution claims  
checklist
- § 34:10 Oil spill cleanup and claims
- § 34:11 Lead paint litigation
- § 34:12 Diesel exhaust

## **II. INSURANCE COVERAGE**

- § 34:13 Insurance for pollution in early comprehensive  
general liability forms
- § 34:14 Occurrence and accident defined
- § 34:15 Sudden and accidental discharges
- § 34:16 Definition of damages
- § 34:17 First-party cases
- § 34:18 Cleanup costs under older forms
- § 34:19 CERCLA
- § 34:20 Nuclear and other contaminations
- § 34:21 The “Absolute” pollution exclusion
- § 34:22 Leaking underground storage tank (LUST) claims
- § 34:23 Coal ash
- § 34:24 Environmental impairment liability coverage
- § 34:25 Coverage allocation
- § 34:26 Pollution—related litigation

### **Bibliography**

## **CHAPTER 35. PROFESSIONAL LIABILITY—PHYSICIANS**

### **I. IN GENERAL**

- § 35:1 Introduction to professional liability insurance
- § 35:2 Introduction to physicians professional liability  
(Medical malpractice)
- § 35:3 Discussion of the medical malpractice crisis

### **II. PHYSICIANS, SURGEONS AND DENTISTS PROFESSIONAL LIABILITY INSURANCE**

- § 35:4 Medical malpractice insurance in the 21st century
- § 35:5 The ISO “standard” physicians, surgeons, and  
dentists form

## TABLE OF CONTENTS

- § 35:6 The nonstandard policy and specialty insurers
- § 35:7 The link between commercial general and professional liability insurance
- § 35:8 Basics of the physicians, surgeons, and dentists form
- § 35:9 Insuring agreements
- § 35:10 Persons insured
- § 35:11 Limits of liability
- § 35:12 Definitions, “medical incidents”
- § 35:13 Consent to settle forms
- § 35:14 Exclusions, notice, and other conditions

### **III. GENERAL PRINCIPLES OF MEDICAL PROFESSIONAL LIABILITY LAW AND CLAIM INVESTIGATION**

- § 35:15 Statutory and legislative factors in malpractice claims
- § 35:16 Contractual factors involved in malpractice claims: patient-physician relationship
- § 35:17 Determining the “standard of care”—“Art” or “science”?
- § 35:18 Factors indicating liability
- § 35:19 Breach of duty: allegations of malpractice
- § 35:20 Informed consent and exceptions
- § 35:21 Contributing negligence and other defenses
- § 35:22 Mental and emotional illnesses
- § 35:23 Second injuries
- § 35:24 Multiple defendants
- § 35:25 Evidence and experts in medical malpractice cases
- § 35:26 Investigation of the wrongful death claim
- § 35:27 Checklist for investigation of physician’s malpractice claim

### **IV. 21ST CENTURY MEDICAL MALPRACTICE ISSUES**

- § 35:28 Malpractice exposure in managed care
- § 35:29 Biotechnological ethics issues
- § 35:30 Genetic testing
- § 35:31 Assisted suicide
- § 35:32 Medical record privacy issues—“HIPAA”
- § 35:33 Terrorism and medicine—Prevention vs. risks
- § 35:34 Managing the medical malpractice claim or lawsuit
- § 35:35 Dangers of new diseases, global epidemics
- § 35:36 Use of releases

## **CHAPTER 36. PROFESSIONAL LIABILITY—DENTISTS, NURSES, HOSPITALS, AND DRUGGISTS—AND THE INVESTIGATION OF MEDICAL MALPRACTICE CLAIMS**

### **I. DENTISTS**

- § 36:1 Generally
- § 36:2 Duty of care
- § 36:3 Expert testimony
- § 36:4 Contributory and comparative negligence
- § 36:5 Releases
- § 36:6 Statutes of limitations
- § 36:7 Sexual misconduct

### **II. NURSES**

- § 36:8 Generally
- § 36:9 Duty of care
- § 36:10 Locality rule
- § 36:11 Some areas of responsibilities of nurses
- § 36:12 Charitable immunity

### **III. HOSPITALS**

- § 36:13 Coverage
- § 36:14 Who is covered
- § 36:15 Hospital liability
- § 36:16 Corporate liability
- § 36:17 Standard of care—Locality rule
- § 36:18 Vicarious liability of a hospital
- § 36:19 Ostensible agency doctrine
- § 36:20 Product/service distinction
- § 36:21 Negligent release of a mental patient
- § 36:22 Blood transfusions and blood banks
- § 36:23 Charitable immunity
- § 36:24 Pleadings

### **IV. DRUGGISTS (PHARMACIES)**

- § 36:25 Generally

### **V. INVESTIGATION OF MEDICAL MALPRACTICE CLAIMS**

- § 36:26 In general

## TABLE OF CONTENTS

- § 36:27 Checklists: qualifications of the insured
- § 36:28 Hospital records
- § 36:29 Druggist's malpractice claims
- § 36:30 Home health care providers
- § 36:31 Nursing home, assisted living, or extended care facility claims
- § 36:32 Medical spa and beauty treatment cases
- § 36:33 Health Maintenance Organizations (HMOs, PPOs)

### Bibliography

## **CHAPTER 37. PROFESSIONAL LIABILITY—LAWYERS**

### **I. LEGAL MALPRACTICE**

- § 37:1 Attorney professional liability
- § 37:2 Some suggestions for the investigation of lawyer's malpractice cases
- § 37:3 Checklist for avoiding legal malpractice

### **II. POLICY COVERAGES**

- § 37:4 Attorney professional liability insurance
- § 37:5 Occurrence policies
- § 37:6 Claims-made policies
- § 37:7 Cases involving exclusions
- § 37:8 Other ISO policy provisions
- § 37:9 Nonstandard policy forms
- § 37:10 Professional services
- § 37:10.50 Failure to understand policy language

### **III. GROUNDS UPON WHICH ACTIONS MAY BE BROUGHT**

- § 37:11 Generally
- § 37:12 Privity of contract
- § 37:13 Actions in negligence—Standard of care
- § 37:14 "Errors-in-judgment" rule
- § 37:15 Duty to research the law
- § 37:16 The age of the computer
- § 37:17 The doctrine of "informed consent"
- § 37:18 The "but for" rule
- § 37:19 Conflict of interests
- § 37:20 What are legal professional services?
- § 37:21 Statute of limitations
- § 37:22 Client's business losses
- § 37:23 Estate planning

- § 37:24 Liability for emotional distress
- § 37:25 Malicious prosecution of lawyers
- § 37:26 Liability of insurer for defense attorney's error

**Bibliography**

## **CHAPTER 38. OTHER AREAS OF PROFESSIONAL LIABILITY**

### **I. ACCOUNTANTS AND AUDITORS**

- § 38:1 Definition of the practice of accounting
- § 38:2 Liability to client—Standard of reasonable care
- § 38:3 Restatement (Second) of Torts
- § 38:4 Liability to third parties—Privity of contract
- § 38:5 Statutory liability—Federal Security Act
- § 38:6 Accountants' professional liability
- § 38:7 Auditors and auditing

### **II. CLAIM ADJUSTERS**

- § 38:8 Claim representative malpractice
- § 38:9 Insurance agency obligations

### **III. ARCHITECTS AND ENGINEERS**

- § 38:10 Generally
- § 38:11 General areas of possible liability
- § 38:12 Hold harmless agreements
- § 38:13 Statute of limitations
- § 38:14 Legislation concerning statutes of limitations
- § 38:15 Checklist for investigation of cases involving architects and engineers

### **IV. CHURCHES AND CLERICS**

- § 38:16 Generally

### **V. DIRECTORS AND OFFICERS**

- § 38:17 Generally
- § 38:18 Indemnification
- § 38:19 Insurance
- § 38:20 The insurance policy
- § 38:21 Officers and directors liability for clean-up costs
- § 38:22 Some recent directors and officers cases

### **VI. EDUCATORS**

- § 38:23 In general

TABLE OF CONTENTS

§ 38:24 Student participation in sports or other athletics

**VII. INSURANCE AGENTS AND BROKERS**

- § 38:25 Generally
- § 38:25.10 Duties of Agents
- § 38:25.20 Duties of agents—Duty to procure
- § 38:25.30 —Duty to disclose
- § 38:25.40 —Duty to advise
- § 38:26 Standard of care
- § 38:27 Insurance agent’s authority
- § 38:28 Ratification
- § 38:29 Professional liability coverage for insurance agents
- § 38:30 Binders
- § 38:31 Actions by company against agent
- § 38:32 Actions by insured against agent
- § 38:33 Actions by third parties against agent
- § 38:34 Some defenses for malpractice actions
- § 38:35 Checklist for agents to prevent some actions for malpractice
- § 38:36 —Insurance brokers and special agents

**VIII. VETERINARIAN LIABILITY**

§ 38:37 Generally

**IX. SEXUAL MISCONDUCT—INSURANCE COVERAGE**

§ 38:38 Generally

**X. REAL ESTATE BROKERS**

§ 38:39 Real estate broker as a fiduciary

**XI. OTHER PROFESSIONAL LIABILITY EXPOSURES AND COVERAGES**

- § 38:40 Miscellaneous professional liability coverages
- § 38:41 Cyber industry malpractice

**Bibliography**

**CHAPTER 39. HANDLING WORKERS COMPENSATION CASES**

**I. GENERAL PRINCIPLES**

§ 39:1 Generally (See Chapter 40 for Discussion of the Work Comp Policy)

- § 39:2 Types of Compensation Acts
- § 39:3 State provisions for obtaining coverage

## **II. ADMINISTRATION**

- § 39:4 Generally

## **III. BENEFITS**

- § 39:5 In general
- § 39:6 Medical benefits
- § 39:7 Indemnity benefits
- § 39:8 Benefits to dependents in fatal cases
- § 39:9 Waiting period
- § 39:10 Second injury or special disability funds

## **IV. THOSE ENTITLED TO COVERAGE**

### **A. IN GENERAL**

- § 39:11 Exempted groups
- § 39:12 Injured must be an employee

### **B. DETERMINING WHO IS AN EMPLOYEE AND WHO IS AN EMPLOYER**

- § 39:13 Generally
- § 39:14 General contractors
- § 39:15 Subcontractor
- § 39:16 Independent contractor
- § 39:17 Checklist for determining claimant's status
- § 39:18 Partners and corporate officers
- § 39:19 Dual employment
- § 39:20 Loaned employees
- § 39:21 Employee leasing
- § 39:22 Volunteers
- § 39:23 Casual employees
- § 39:24 Statutory employers

## **V. PERSONAL INJURY BY ACCIDENT ARISING OUT OF AND IN THE COURSE OF THE EMPLOYMENT**

- § 39:25 Injury "Arising out of and in the Course of" employment—Generally
- § 39:26 Personal injury "In the Course of . . ."
- § 39:27 Accident
- § 39:28 "Arising Out of the Employment"
- § 39:29 "In the Course Of"

TABLE OF CONTENTS

**VI. EXCLUSIVE REMEDY IN WORKERS  
COMPENSATION**

- § 39:30 Generally
- § 39:31 Remedy exclusive even where no compensation award  
is made
- § 39:32 Derivative suits
- § 39:33 Action for loss of consortium
- § 39:34 Dual capacity doctrine
- § 39:35 Insurance coverage dual capacity dilemma
- § 39:36 Intentional injury
- § 39:37 Sexual harassment

**VII. OTHER MATTERS**

- § 39:38 Third party action
- § 39:39 Punitive damages arising out of compensation cases
- § 39:40 Jurisdiction and extraterritoriality
- § 39:41 —Jurisdiction
- § 39:42 Notice of accident or disease
- § 39:43 Liability of successive insurers
- § 39:44 Illegal employment of minors
- § 39:45 Malpractice as related to workers compensation
- § 39:46 Final determination
- § 39:47 Rehabilitation
- § 39:48 Structured settlements in workers compensation  
cases
- § 39:49 Liens relating to workers compensation settlements—  
Subrogation
- § 39:50 The “Bunkhouse Rule”
- § 39:51 Privacy of workers comp records
- § 39:52 Trends in workers compensation
- § 39:53 Risk managing workers compensation
- § 39:54 Canadian workers compensation
- § 39:55 Federal Medicare/Medicaid set-aside liens

**CHAPTER 40. WORKERS COMPENSATION  
COVERAGE AND CLAIM INVESTIGATION**

**I. THE NCCI POLICY: WORKERS COMPENSATION  
AND EMPLOYERS LIABILITY FORM**

- § 40:1 Role of the National Council on Compensation  
Insurance
- § 40:2 The Workers Compensation Policy
- § 40:3 Part One: Workers Compensation Insurance
- § 40:4 Part Two: Employers Liability

- § 40:5 Part Three: Other States Insurance
- § 40:6 Exclusions and conditions
- § 40:7 Endorsements and schedules
- § 40:8 Premium rating
- § 40:9 Self-insurance and excess or stop-loss coverage
- § 40:10 Guarantee associations and insolvency funds
- § 40:11 Investigating and evaluating coverage issues

## **II. WORKERS COMPENSATION CLAIM INVESTIGATION**

- § 40:12 “Accident” vs. “Injury” arising out of employment
- § 40:13 Investigating causation and compensability
- § 40:14 Injuries away from place of employment
- § 40:15 Interviewing the employer/insured
- § 40:16 Interviewing the injured employee
- § 40:17 Interviewing the witnesses
- § 40:18 Scene investigation
- § 40:19 Preserving evidence for subrogation

## **III. ASSESSING DAMAGES**

- § 40:20 Obtaining and calculating wage information and waiting period
- § 40:21 Immediate medical care: selection by claimant or employer?
- § 40:22 Obtaining information from the treating physician
- § 40:23 Evaluating the injury
- § 40:24 Coordinating benefits with other providers or sources—Avoiding double-dip
- § 40:25 Preparing a second-injury fund claim
- § 40:26 Lingering injury vs. malingering—Investigating the suspicious loss
- § 40:27 Use of outside investigative services
- § 40:28 Isolating the facts for evaluation—Importance of loss data
- § 40:29 International coverage and claims

## **IV. OCCUPATIONAL DISEASES**

- § 40:30 Coverage of occupational diseases in compensation legislation
- § 40:31 Respiratory and environmental diseases
- § 40:32 Other types of covered occupational diseases
- § 40:33 Common “Ordinary” illnesses—Diseases of life
- § 40:34 Emotional distress or mental anguish claims
- § 40:35 Nonmental stress-related claims

## **V. INVESTIGATING DISABILITY AND INDEMNITY**

- § 40:36 Temporary partial disability

## TABLE OF CONTENTS

- § 40:37 Temporary total disability
- § 40:38 Permanent partial or total disability
- § 40:39 Reserving and calculating the benefits
- § 40:40 Following-up with the claimant or attorney
- § 40:41 Arranging for future medical benefits
- § 40:42 Benefits and survivorship in fatalities
- § 40:43 Settlement of workers compensation claims

## **VI. USE OF REHABILITATION FOR REDUCING LOSS**

- § 40:44 Formal “Return-to-Work” Programs
- § 40:45 Use of medical case management
- § 40:46 Rehabilitation programs
- § 40:47 “Employee Assistance” programs
- § 40:48 Nonoccupational disability laws
- § 40:49 “24-Hour Coverage” plans

## **VII. EMPLOYERS LIABILITY CLAIMS**

- § 40:50 Types of claims outside the “Exclusive Remedy” protection
- § 40:51 Claims where employer has rejected the “Act”
- § 40:52 Spousal derivative claims
- § 40:53 Dual capacity claims
- § 40:54 “Intentional” injury claims
- § 40:55 “Co-Worker” suits
- § 40:56 Independent contractor “Claim-over” suits
- § 40:57 Illegal employment claims (minors, illegal immigrants)

## **VIII. EMPLOYER LIABILITY AND WORKERS COMPENSATION LITIGATION**

- § 40:58 Rights of claimants to bring suits
- § 40:59 Defending workers compensation litigation
- § 40:60 Separating “Employers Liability” from “Employment Practices Liability”

## **IX. RECENT WORKERS COMPENSATION ISSUES**

- § 40:61 Workplace violence
- § 40:62 Compensability of incarcerated “Employee”
- § 40:63 Pursuing claims against treating physician for malpractice
- § 40:64 Elderly workers
- § 40:65 Workers compensation for public employees in hazardous conditions
- § 40:66 Employer health tracking

§ 40:67 Opioid addiction and deaths

## **CHAPTER 41. FEDERAL EMPLOYERS LIABILITY ACT AND OTHER FEDERAL EMPLOYMENT COMPENSATION LEGISLATION**

- § 41:1 McCarron-Ferguson Act of 1945
- § 41:2 Federal legislation—Americans With Disability Act
- § 41:3 Federal Employees' Compensation Act (FECA)
- § 41:4 Federal Employers' Liability Act (FELA)
- § 41:5 Longshore and Harbor Workers' Compensation Act
- § 41:6 Defense Base Act
- § 41:7 War Hazards Compensation Act
- § 41:8 The Jones Act (Merchant Marine Act, Revised 7th ed. 1976)
- § 41:9 Federal Tort Claims Act
- § 41:10 Occupational Safety and Health Act (OSHA)
- § 41:11 Death On The High Seas Act (1976) (DOHSA)
- § 41:12 Veterans Administration Benefits
- § 41:13 Racketeer Influenced and Corrupt Organizations Act (RICO)
- § 41:14 Federal Arbitration Act
- § 41:15 Federal Insecticide, Fungicide & Rodenticide Act (FIFRA)
- § 41:16 Federal Age Discrimination Act

## **CHAPTER 42. WRONGFUL TERMINATION OF EMPLOYMENT, DISCRIMINATION, AND EMPLOYMENT PRACTICES LIABILITY**

### **I. IN GENERAL**

- § 42:1 Introduction
- § 42:2 Types of discriminatory actions creating employment practices liability
- § 42:3 Employment Practices Liability insurance
- § 42:4 Typical EPL actions
- § 42:5 Actions brought in contract
- § 42:6 Implied contracts—Personnel manuals
- § 42:7 Public policy exceptions to the “At-Will” doctrine
- § 42:8 Implied covenant of good faith and fair dealing

### **II. TORT OF WRONGFUL DISCHARGE**

- § 42:9 Generally
- § 42:10 Fraud

TABLE OF CONTENTS

- § 42:11 Emotional distress and punitive damages
- § 42:12 Employment discrimination
- § 42:13 Other grounds for tort actions

**III. INSURANCE ISSUES IN DISCRIMINATION OR  
TERMINATION OF EMPLOYMENT**

- § 42:14 Generally
- § 42:15 Umbrella policies
- § 42:16 Errors & omissions and directors & officers liability  
policies
- § 42:17 Comprehensive and commercial general liability  
policies
- § 42:18 Occurrence—Pattern and practice
- § 42:19 Employment exclusion in general liability policies
- § 42:20 “Civil Suit”
- § 42:21 Public policy in insurance coverage
- § 42:22 Workers’ compensation policy
- § 42:23 “Occurrence” defined

**IV. SEXUAL HARASSMENT**

- § 42:24 The “Sexual Harassment” problem
- § 42:25 Definition of “Sexual Harassment”
- § 42:26 Gender discrimination
- § 42:27 Handling a harassment or discrimination claim

**V. OTHER MATTERS**

- § 42:28 Effects of Americans With Disability Act (ADA)
- § 42:29 Employment practices liability loss prevention
- § 42:30 Unemployment compensation claims of terminated  
employees
- § 42:31 The international nature of employment practices  
laws
- § 42:32 Garnishing of wages
- § 42:33 Other workplace laws

**Bibliography**

**CHAPTER  
43. SUBROGATION—SALVAGE—  
CONTRIBUTION—ALLOCATION—  
AGGREGATE LIMITS**

**I. SUBROGATION**

- § 43:1 Basics of subrogation

- § 43:2 Policy wording
- § 43:3 Applicable insurance lines
- § 43:4 Third party recovery
- § 43:5 Third party settlement by insured
- § 43:6 Sample form lien letters
- § 43:7 Other subrogation rights
- § 43:8 Right of action
- § 43:9 Defenses to subrogation actions
- § 43:10 Voluntary payment
- § 43:11 Waiver of subrogation rights
- § 43:12 Loan receipts
- § 43:13 Practical application of subrogation rights
- § 43:14 Some factors to consider
- § 43:15 Subrogation receipt
- § 43:16 Knock-for-knock agreements
- § 43:17 Subrogation agreement
- § 43:18 Arbitration
- § 43:19 Deductible feature of collision policy
- § 43:20 Subrogation apportionment—Excess carrier
- § 43:21 Recovery expenses
- § 43:22 Some recent cases involving subrogation
- § 43:23 Subrogation under the workers compensation acts

## **II. SALVAGE**

- § 43:24 In general
- § 43:25 Checklist for claims involving salvage

## **III. CONTRIBUTION**

- § 43:26 Contribution, generally

## **IV. ALLOCATION**

- § 43:27 Allocation of damage awards

## **V. AGGREGATE LIMITS**

- § 43:28 Aggregate limit of liability

### **Bibliography**

## **CHAPTER 44. LOSS REPORTING AND CLAIM AUDITS**

### **I. IN GENERAL**

- § 44:1 Introduction

### **II. REPORTING**

- § 44:2 Necessity for reporting

## TABLE OF CONTENTS

- § 44:3 Necessity for prompt reporting
- § 44:4 Manner and form of reporting
- § 44:5 The art of dictating a report
- § 44:6 Objectionable material

### **III. REPORTS**

- § 44:7 Casualty claim investigation report outline (other than compensation)
- § 44:8 Casualty litigation report outline (other than workers compensation)
- § 44:9 Workers compensation claim investigation report outline
- § 44:10 Special report outlines
- § 44:11 Interim reports
- § 44:12 Final reports
- § 44:13 Computerized reporting systems

### **IV. CLAIMS REVIEWS OR AUDITS**

- § 44:14 Reasons for claims review or audit
- § 44:15 Primary factors to consider in a claims review
- § 44:16 Conducting a claim audit for self-funding commercial insured
- § 44:17 Auditing files in litigation
- § 44:18 Audit compliance criteria to industry or claim contract standards
- § 44:19 Report and file retention

## **CHAPTER 45. REINSURANCE OF CASUALTY CLAIMS**

### **I. IN GENERAL**

- § 45:1 History and development
- § 45:2 Definition of reinsurance
- § 45:3 Relationship between reinsurer and reinsured
- § 45:4 General objectives of reinsurance
- § 45:5 Indemnity contract

### **II. REINSURANCE TYPES, KINDS, AND PLANS**

- § 45:6 Generally
- § 45:7 Quota share reinsurance
- § 45:8 Facultative reinsurance
- § 45:9 Surplus reinsurance
- § 45:10 Aggregate excess-of-loss reinsurance
- § 45:11 Working excess reinsurance

- § 45:12 Property catastrophe reinsurance contracts
- § 45:13 Fronting contracts
- § 45:14 Other types of reinsurance contracts
- § 45:15 Governmental reinsurance-related programs

### **III. RESPONSIBILITIES OF THE CEDING AND REINSURING COMPANY**

- § 45:16 “Utmost Good Faith”
- § 45:17 Reinsurer’s responsibility to ceding company
- § 45:18 Following the fortunes of the reinsured
- § 45:19 Arbitration provision
- § 45:20 Cooperation and notice of claim or suit clauses and claims
- § 45:21 The Terrorism Risk Insurance Act of 2002

#### **Bibliography**

# Table of Contents

## **CHAPTER 46. HIGH DEDUCTIBLES, PURE SELF-INSURANCE AND OTHER SELF-FUNDING MECHANISMS IN COMMERCIAL RISK MANAGEMENT PROGRAMS**

### **I. SELF-INSURANCE OF CASUALTY INSURANCE LOSSES**

§ 46:1 Generally

### **II. OTHER TYPES OF SELF-FUNDED INSURANCE PROGRAMS**

§ 46:2 Generally

§ 46:3 High deductible and “fronted” insurance

§ 46:4 Experience rating and retrospectively rated policies

§ 46:5 Self-insured retentions (SIRs) and funded reserve programs

§ 46:6 Excess, stop loss, and umbrella policies

§ 46:7 Fronted and compensating balance programs

§ 46:8 Captives and underwriting pools

§ 46:9 Self-insurance or captive related problems

### **III. SELF-INSURED CLAIMS HANDLING PROCEDURES**

§ 46:10 Generally

§ 46:11 In-house claims departments

§ 46:12 Outside adjusting services

§ 46:13 Statistical reporting

§ 46:14 Claims settlement funding

§ 46:15 Centralized or local claims handling

§ 46:16 Supervision and monitoring

§ 46:17 Computerized communication and analysis

### **IV. MACRO-ADJUSTING VS. MICRO-ADJUSTING**

§ 46:18 Generally

### **Bibliography**

## **CHAPTER 47. COMPUTERS AND CASUALTY INSURANCE CLAIMS**

### **I. IN GENERAL**

§ 47:1 Introduction

### **II. COMPUTERIZED ASPECTS OF BUSINESS**

- § 47:2 Generally
- § 47:3 Control of internal accounting and payroll systems
- § 47:4 Control of internal human resources data systems
- § 47:5 Control of business products: sales and inventory
- § 47:6 Control of customer billing
- § 47:7 Internal/External systems: telephone and communication systems
- § 47:8 Robotics

### **III. AREAS OF CASUALTY EXPOSURE**

- § 47:9 Generally
- § 47:10 Direct and indirect loss from physical damage
- § 47:11 Physical damage
- § 47:12 Indirect loss
- § 47:13 Third-party liability
- § 47:14 Contingent liability for loss of client data
- § 47:15 Hardware errors
- § 47:16 Software errors
- § 47:17 Internal and external dishonesty
- § 47:18 Confidentiality of data

### **IV. CASUALTY INSURANCE FOR COMPUTER RELATED LOSS**

- § 47:19 Generally
- § 47:20 Coverage provided within other forms
- § 47:21 Commercial property forms
- § 47:22 Commercial liability forms
- § 47:23 Commercial crime loss forms
- § 47:24 Special risk coverages (computerized robotics)
- § 47:25 Software E&O
- § 47:26 Software infringement—License violations
- § 47:27 Data loss
- § 47:28 Insurance for computer first and third party risks
- § 47:29 Cyber warfare, computer fraud, and liability to others

### **V. INVESTIGATION OF COMPUTER-RELATED LOSS**

§ 47:30 Generally

## TABLE OF CONTENTS

- § 47:31 Investigating the coverage
- § 47:32 Type of loss
- § 47:33 Property and inland marine losses
- § 47:34 Crime losses
- § 47:35 Liability losses
- § 47:36 Coverage aspects
- § 47:37 Evaluating and reporting coverage to the insurer
- § 47:38 Coverage negotiation
- § 47:39 Potential third party claims
- § 47:40 Assessing data-related factors
- § 47:41 Assessing damages
- § 47:42 Preventing and managing litigation

## **VI. USE AND MISUSE OF COMPUTER DATA IN LITIGATION**

- § 47:43 Generally
- § 47:44 Discoverability of computerized documentation
- § 47:45 Admissibility of computerized documentation

## **VII. USE OF THE COMPUTER IN ADJUSTMENT OF CASUALTY CLAIMS**

- § 47:46 Generally
- § 47:47 Claim reserve and payment records
- § 47:48 File reporting
- § 47:49 Communications with those involved in claims
- § 47:50 Computer-generated damage evaluations
- § 47:51 “Artificial Intelligence”—Good or Bad?

## **CHAPTER 48. CRIME, SURETYSHIP AND FINANCIAL CLAIMS AS CASUALTY LOSS**

### **I. TYPES OF CRIME INSURANCE COVERAGES**

- § 48:1 Generally

### **II. RESIDENTIAL AND PERSONAL CRIME LOSS**

- § 48:2 Types of residential or personal crime coverages
- § 48:3 Investigation of residential or personal crime claims

### **III. BURGLARY, ROBBERY AND COMMERCIAL THEFT**

- § 48:4 Commercial crime coverage, generally
- § 48:5 Coverage investigation
- § 48:6 Liability investigation

§ 48:7 Damage investigation, evaluation, and negotiation

#### **IV. SAFE BURGLARY AND ROBBERY (COMMERCIAL) INVESTIGATION**

§ 48:8 Generally

§ 48:9 Coverage investigation

§ 48:10 Liability investigation

§ 48:11 Investigation, evaluation, and negotiation of the amount of loss

§ 48:12 ATM/Night depository theft (personal or commercial coverages)

#### **V. COMPUTER THEFT AND RELATED CRIMES**

§ 48:13 Computer fraud coverage, generally

§ 48:14 Computer crime coverage

§ 48:15 Investigation of computer-related crime

#### **VI. DEPOSITORS FORGERY AND RELATED CRIME INSURANCE COVERAGES**

§ 48:16 Depositors forgery and other crime coverages

§ 48:17 Depositors forgery coverage and claims

§ 48:18 Other crime peril coverages

#### **VII. FIDELITY CLAIMS (EMPLOYEE DISHONESTY) AND RELATED COVERAGES**

§ 48:19 Employee dishonesty (fidelity bonds)

§ 48:20 Types of fidelity bonds

§ 48:21 Coverage aspects of employee dishonesty/fidelity bonds

§ 48:22 Guidelines for handling employee dishonest claims

§ 48:23 Related types of bonds

§ 48:24 Underwriting criteria of suretyship

#### **VIII. RELATED FINANCIAL AND FIDUCIARY LIABILITY COVERAGES**

§ 48:25 Financial and fiduciary issues

§ 48:26 Fiduciary liability insurance

§ 48:27 Accounts receivable or bankrupt client coverages

§ 48:28 Directors & Officers (D&O) liability insurance

§ 48:29 Domestic and international terrorism coverages

§ 48:30 Contract bonds

§ 48:31 Other types of nonfidelity surety bonds

§ 48:32 Intellectual property

§ 48:33 Financial institution insurance issues

TABLE OF CONTENTS

**CHAPTER  
49. TRANSPORTATION-RELATED  
CASUALTY CLAIMS**

**I. INTRODUCTION**

§ 49:1 The nature of transportation risks

**II. COMMERCIAL AUTOMOBILE RISKS (FLEET/  
TRUCKS)**

- § 49:2 Highway vehicle exposures
- § 49:3 Business auto coverage forms
- § 49:4 Investigation of large vehicle liability and related coverages
- § 49:5 Physical damage—The deductible and stated value issue
- § 49:6 The “Mobile Equipment” issue
- § 49:7 Liability investigation and risk management of the highway risk
- § 49:8 Beyond the I.C.C.—Dealing with the STB, NTSB, or EPA

**III. INLAND MARINE AND SPECIAL COVERAGES**

- § 49:9 Nature of Inland Marine Insurance
- § 49:10 Instrumentalities of commerce and transportation
- § 49:11 Cargo and goods shipment, including postal risks
- § 49:12 “Floater” forms
- § 49:13 Bailment liability and combination forms

**IV. OCEAN MARINE, AVIATION AND OTHER  
COVERAGES**

- § 49:14 Nature of “Wet” marine risks
- § 49:15 Basics of ocean marine coverages
- § 49:16 Hull coverages
- § 49:17 Freight (cargo) and general average
- § 49:17.50 Liability of marine vessel owners and operators to those both aboard the vessel and elsewhere
- § 49:18 Yacht and small craft claims
- § 49:19 Background of aviation risks
- § 49:20 Coverage of aircraft
- § 49:21 Liability, selection of exposure coverages
- § 49:22 Investigating an aviation accident
- § 49:23 Specialty risks
- § 49:24 Railroad-related claims
- § 49:25 Delay in shipment claims

- § 49:26 Renewable energy methods
- § 49:26.50 Pipelines and tunnels
- § 49:27 Rail transport vs. pipelines
- § 49:28 The space industry

## **CHAPTER 50. PROPERTY INSURANCE CLAIMS AND LOSS ADJUSTING**

### **I. INTRODUCTION TO PROPERTY INSURANCE**

- § 50:1 History of property insurance
- § 50:2 Typical property insurance agreements and conditions
- § 50:3 Personal lines—Premises and unscheduled personal property
- § 50:4 Commercial lines—Premises and unscheduled personal property
- § 50:5 —Various coverage issues

### **II. PERILS COVERED AND EXCLUDED**

- § 50:6 Selection of peril coverage
- § 50:7 Fire-related perils and exclusions
- § 50:8 Weather-related perils and exclusions
- § 50:9 Flood insurance—Exclusions and NFIP coverages
- § 50:10 Perils related to natural events (other than weather)
- § 50:11 Perils related to human activities and exclusions
- § 50:12 Government-related loss and exclusions
- § 50:13 War, terrorism, and nuclear events

### **III. COVERAGE FOR CERTAIN CIRCUMSTANCES**

- § 50:14 Supplemental coverages
- § 50:15 Coverage on property of others
- § 50:16 Coverage on property away from covered premises
- § 50:17 Special needs coverage: farms, crops, livestock
- § 50:18 Personal property and home services

### **IV. EVALUATION AND ADJUSTMENT OF PROPERTY LOSSES**

- § 50:19 Evaluation of loss
- § 50:20 Total losses
- § 50:21 Assessing structural damage—Application of building codes
- § 50:22 Coinsurance, replacement cost coverage, and depreciation
- § 50:23 Assessing personal property losses and related indirect loss

TABLE OF CONTENTS

- § 50:24 Claim settlement options
- § 50:25 Equipment breakdown coverage (boiler & machinery)

## **CHAPTER 51. INDIRECT LOSS—FIRST- AND THIRD-PARTY CLAIMS**

### **I. TYPES OF INDIRECT LOSS**

- § 51:1 Introduction to indirect loss
- § 51:2 Types of indirect loss
- § 51:3 History of indirect loss insurance
- § 51:4 Indirect vs. direct loss
- § 51:5 Documentation of indirect loss
- § 51:6 Responsibility for indirect loss

### **II. INSURANCE COVERAGES FOR COMMERCIAL INDIRECT LOSSES**

- § 51:7 Equipment breakdown insurance
- § 51:8 Computer insurance (indirect loss)
- § 51:9 Indirect loss coverages in liability forms
- § 51:10 Indirect loss coverage in business auto physical  
damage forms
- § 51:11 Basics of business income insurance
- § 51:12 Business income forms
- § 51:13 Extra expense coverages
- § 51:14 Rental value coverages
- § 51:15 Contingency (loss to dependent property) coverages
- § 51:16 Leasehold interest coverages
- § 51:17 Unusual indirect loss coverages

### **III. COMBINATION CLAIMS**

- § 51:18 Determining net income
- § 51:19 Determining continuing and extra expenses
- § 51:20 Determining ordinary payroll
- § 51:21 Covered and uncovered operating expenses
- § 51:22 Use of accountants in claim calculation
- § 51:23 Calculation of economic loss in nonworkers  
compensation death claims
- § 51:24 Calculation of economic loss in survival or serious  
injury claims
- § 51:25 Loss from blockages

## **CHAPTER 52. COORDINATING CASUALTY INSURANCE CLAIMS WITH LIFE AND HEALTH COVERAGES**

### **I. IN GENERAL**

- § 52:1 Introduction to life and health coverages
- § 52:2 The private market
- § 52:3 Group coverages (employee benefits)

### **II. TYPES OF COVERAGES**

- § 52:4 Life insurance
- § 52:5 Accidental Death & Dismemberment Insurance (AD&D)
- § 52:6 Medical, surgical, & hospitalization insurance
- § 52:7 Disability insurance
- § 52:8 Specialty coverages
- § 52:9 Changes in medical insurance delivery systems

### **III. OVERLAPS WITH CASUALTY INSURANCE**

- § 52:10 The changing role of commercial risk management
- § 52:11 Areas of coverage overlaps—Avoiding ‘Double Dip’
- § 52:12 Determining who pays what portion of the loss
- § 52:13 Conflicts in delivery systems and the issue of choice
- § 52:14 Effects of ERISA
- § 52:15 Medicare set-asides and the Affordable Care Act
- § 52:15.50 Medicare Secondary Payer Act—Private causes of action for double damages against primary plans that fail to provide primary payment or appropriate reimbursement to Medicare

## **CHAPTER 53. CLAIMS TECHNOLOGY AND SECURITY ISSUES IN THE TWENTY-FIRST CENTURY**

### **I. IN GENERAL**

- § 53:1 Technology and the insurance industry
- § 53:2 Benefits and hazards of robotics
- § 53:3 Technology and insurance administration
- § 53:4 Loss data and analysis
- § 53:5 Determination of damage values
- § 53:6 Fraud detection
- § 53:7 Claim reporting, settlement, and litigation management

TABLE OF CONTENTS

**II. NEW PERILS AND CLAIM EXPOSURES  
RELATED TO TECHNOLOGY AND SECURITY**

- § 53:8 Technology and identity theft—First and third party exposures
- § 53:9 Technology “security” liability issues and insurance
- § 53:10 Security liability to customers
- § 53:11 Security against terrorism
- § 53:12 Pandemics
- § 53:13 Nontechnology/security/terrorism risks of the 21st century
- § 53:14 Elder abuse

**CHAPTER 54. BASICS OF COMMERCIAL  
RISK MANAGEMENT IN THE 21ST  
CENTURY**

**I. FINANCING RISK**

- § 54:1 Pure risk management concepts
- § 54:2 Transfer of risk
- § 54:3 Transfer of risk costs by contract
- § 54:4 Risk cost acceptance—Unbudgeted
- § 54:5 —Budgeted reserves
- § 54:6 Use of credit to pay for loss
- § 54:7 Tax offsets
- § 54:8 Bankruptcy
- § 54:9 Actuarial requirements to self-insure or self-fund loss
- § 54:10 Hedging and pooling
- § 54:11 Analysis of perils and exposures

**II. RISK CONTROL**

- § 54:12 Preloss prevention programs
- § 54:13 Areas for preloss prevention
- § 54:14 Loss control processes
- § 54:15 Cost of preloss prevention
- § 54:16 Postloss cost control processes
- § 54:17 Measuring efficiency of the risk management program
- § 54:18 Financial technology and new ways of tracking commerce
- § 54:19 “Global Warming”
- § 54:20 Risks in the Energy Market
- § 54:21 Risk managing disasters
- § 54:22 The dangers of computer hacking and cyberattacks

**Table of Laws and Rules**

**Table of Cases**  
**Index**