

AMERICAN BAR ASSOCIATION  
TORT TRIAL & INSURANCE PRACTICE SECTION  
FIDELITY AND SURETY LAW COMMITTEE PRESENTS

# ANNOTATED COMMERCIAL CRIME POLICY

October 5-6, 2006  
Marriott Wardman Park Hotel  
Washington, DC

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



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the Tort Trial & Insurance Practice Section

# WELCOME

## The Annotated Commercial Crime Policy

**Long overdue**, the Committee is proud to present a comprehensive one and one-half day program based upon the Second Edition of the *Annotated Commercial Crime Policy*. Following the format of the highly successful combination speaker/workshop programs recently presented by the Committee, the first day of this program will present a combination of distinguished speakers addressing the most important substantive areas of the Commercial Crime Policy, followed by a series of interactive workshops designed for both beginning and experienced claims professionals and practitioners. On Friday morning, the program will conclude with several additional speakers as well as a distinguished panel discussing many of the issues developed in the workshop and presentations. This session of the program features The Honorable Paul W. Grimm, Chief Magistrate Judge, United States District Court, District of Maryland.

The program has been designed for all professionals involved in the handling of commercial crime claims, from novice to expert, whether they are insurance company claim representatives or underwriters, risk managers, or officers of insured entities, lawyers for claimants or insurers, consultants, or bond producers. Some of the most experienced commercial crime specialists in the industry will examine policy interpretation and changes in policy forms. The program will examine the most recent cases analyzing the meaning of employee dishonesty, employee theft and other risks that may be covered by the commercial crime policy and other fidelity bonds; who is an employee and who is the insured's alter ego; when is a loss discovered and when is a loss sustained; compensability of claims arising from an insured's liability to third parties; the stacking of limits of liability and coverage for loss sustained during prior policies; and the indirect loss, potential income, inventory and other significant exclusions to coverage.

Attendees will receive a copy of the Annotated Commercial Crime Policy. First published in 1985 as *The Annotated Commercial Blanket Bond* and supplemented in 1991, the original book quickly became a widely-used resource for industry professionals. In the fifteen years since the *Annotated Commercial Blanket Bond* was last supplemented, there have been significant developments in the case law interpreting existing policy forms, and newer theft coverage forms have become widely used. The newest publication will provide attendees with up-to-date summaries of cases addressing the relevant provisions of the commercial crime policy and related forms.

The program will be held at the Marriott Wardman Hotel, 2660 Woodley Road, NW (at the corner of Connecticut Avenue, NW) located in the heart of Washington, DC, just steps from the National Zoo. The program will follow immediately after the Fidelity Law Association annual meeting program, to be held on October 4, 2006, at the same location.

### DINNER WITH THE PANDAS

Be sure not to miss our reception and dinner at the world famous Panda Exhibit at the National Zoo, directly across the street from our hotel. We've made special arrangements to have our fall reception and dinner right on the zoo grounds, with our reception at the Giant Panda Exhibit. The zoo will be closed, so we'll have the exhibit area all to ourselves. Come share some refreshments with other attendees, join us for a delicious dinner, and see why everyone is talking about the National Zoo's Giant Panda Exhibit.



### YOUNG PROFESSIONALS EVENT

Are you seeking opportunities to meet other Young Professionals while in Washington, DC? Look no further than the Young Professionals Subcommittee. YPS invites all attendees age 40 and under to join us for networking and social events. YPS is planning a dinner in Washington, DC on Thursday, October 5, 2006. We promise a hip and lively conversation. Further information will follow by email to all YPS members and will be posted on the YPS homepage ([www.abanet.org/tips/fslc/ypd/hompage1.htm](http://www.abanet.org/tips/fslc/ypd/hompage1.htm)).

Join YPS today and receive email notification of all of the YPS events. For information on joining YPS contact Dorsey Carson at [dcarson@kflplaw.com](mailto:dcarson@kflplaw.com) or Melissa Gardner at [melissa.gardner@strasburger.com](mailto:melissa.gardner@strasburger.com).

**This is a unique program you won't want to miss! Save money and register now!**

**Michael Keeley, FSLC Committee Chair**  
*Strasburger Price, LLP*  
Dallas, TX

**Lana M. Glovach, Program Co-Chair**  
*The Hartford*  
Hartford, CT

**Cole S. Kain, Program Co-Chair**  
*Clausen Miller PC*  
Chicago, IL

# FACULTY

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*Strasburger Price, LLP*  
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**Cole S. Kain**  
*Clausen Miller PC*  
Chicago, IL

**Lana M. Glovach**  
*The Hartford*  
Hartford, CT

## FACULTY & AUTHORS

**Julie Alleyne**  
*The Hartford*  
Hartford, CT

**Samuel J. Arena, Jr.**  
*Stradley, Ronon, Stevens & Young, LLP*  
Philadelphia, PA

**Lisa A. Block**  
*CNA Insurance Company*  
Monmouth Junction, NJ

**William Bogaert**  
*Wilson, Elser, Moskowitz,  
Edelman & Dicker, LLP*  
Boston, MA

**M. Patricia Duffy**  
*The Chubb Group*  
Florham Park, NJ

**CharCretia V. DiBartolo**  
*Hinshaw & Culbertson LLP*  
Boston, MA

**David T. DiBiase**  
*Anderson McPharlin & Connors, LLP*  
Los Angeles, CA

**Karen K. Fitzgerald**  
*Kleiman Lawrence Baskind Fitzgerald, LLP*  
Dallas, TX

**Edward G. Gallagher**  
*Surety & Fidelity Association of America*  
Washington, DC

**Lana M. Glovach**  
*The Hartford*  
Hartford, CT

**Hon. Paul W. Grimm**  
*Chief Magistrate Judge,  
United States District Court*  
District of Maryland  
Baltimore, MD

**Teresa N. Jones**  
*Zurich North America*  
Baltimore, MD

**James A. Knox, Jr.**  
*Tressler, Soderstrom, Maloney & Pries*  
Chicago, IL

**Thomas McNeill**  
*Travelers*  
Minneapolis, MN

**Richard S. Mills**  
*McElroy, Deutsch, Mulvaney & Carpenter, LLP*  
New York, NY

**Michael B. Mulvey, Jr.**  
*AIG Domestic Claims*  
New York, NY

**Dolores A. Parr**  
*Zurich North America*  
Baltimore, MD

**Richard L. Pemberton**  
*Travelers*  
Minneapolis, MN

**Martha L. Perkins**  
*Whiteford, Taylor & Preston, LLP*  
Washington, DC

**Carol A. Pisano**  
*McElroy, Deutsch, Mulvaney & Carpenter, LLP*  
New York, NY

**Scott L. Schmookler**  
*Clausen Miller PC*  
Chicago, IL

**Armen Shahinian**  
*Wolff & Samson, PC*  
West Orange, NJ

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*The Chubb Group*  
Pittsburgh, PA

**D. M. Studler**  
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Atlanta, GA

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*Strasburger & Price, LLP*  
Dallas, TX

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*Gilliland & Hayes, PC*  
Kansas City, MO

**William H. Woods**  
*McNamara and McNamara, LLP*  
Columbus, OH

# REGISTRATION FORM

ABA Tort Trial & Insurance Practice Section (TIPS)  
TIPS Fidelity & Surety Law Fall CLE Program  
Annotated Commercial Crime Policy  
October 5-6, 2006 • Washington, DC

**1. REGISTRANT: (Please print or type one form per person; photocopy this form for additional registrants)**

LAST NAME FIRST NAME MI

NAME AS YOU WISH IT TO APPEAR ON YOUR BADGE

FIRM/COMPANY

WHAT STATE(S) ARE YOU LICENSED IN?

ADDRESS

CITY STATE ZIP

(AREA CODE) BUSINESS TELEPHONE FACSIMILE

E-MAIL ADDRESS

How many Fidelity & Surety Law Committee CLE programs have you attended (including this one)? \_\_\_3 or less \_\_\_4 or more

\_\_\_ I am a member of the ABA and wish to join the Tort Trial & Insurance Practice Section.

I have enclosed a separate check for \$50 made payable to the American Bar Association.

**2. REGISTRATION FEES:**

	On or Before	After		
	9/19/06	9/19/06	QTY	TOTAL
TIPS Member	\$350	\$375	___	___
TIPS Member Insurance Company Employee	Free	\$225	___	___
General Attendee	\$400	\$425	___	___
Insurance Company Employee - Non-TIPS	\$200	\$225	___	___
Law Student	\$150	\$175	___	___
			<b>Subtotal</b>	___

**3. TOTAL PAYMENT**

**TOTAL** \_\_\_

**4. PAYMENT INFORMATION:**

Check (made payable to the ABA) \_\_\_ American Express \_\_\_ MasterCard \_\_\_ VISA

Credit Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Signature \_\_\_\_\_

**THREE WAYS TO REGISTER**

1. **ONLINE:** [www.abanet.org/tips](http://www.abanet.org/tips)

2. **MAIL:** TIPS Fidelity & Surety Law Fall CLE Program  
Annotated Commercial Crime Policy Program  
American Bar Association  
Tort Trial & Insurance Practice Section  
321 North Clark Street, 18<sup>th</sup> Floor  
Chicago, IL 60610

3. **FAX:** 312/988-6230

# PROGRAM AGENDA

## WEDNESDAY, OCTOBER 4, 2006

- 2:00 – 5:00 p.m. **EARLY REGISTRATION**
- 6:00 – 9:00 p.m. **DINNER WITH THE PANDAS AT THE NATIONAL ZOO**  
3001 Connecticut Ave. NW  
Washington, DC  
(directly across from hotel)

## THURSDAY, OCTOBER 5, 2006

- 7:30 a.m. **CONTINENTAL BREAKFAST AND REGISTRATION**
- 8:00 a.m. **WELCOMING REMARKS**  
**Michael Keeley**  
**FSLC Committee Chair**  
*Strasburger Price, LLP*  
Dallas, TX
- 8:05 a.m. **INTRODUCTION TO PROGRAM**  
**Cole S. Kain** **Lana M. Glovach**  
**Program Co-Chair** **Program Co-Chair**  
*Clausen Miller, PC* *The Hartford*  
Chicago, IL Hartford, CT
- 8:10 – 8:25 a.m. **CONCISE HISTORY OF FIDELITY FORMS**  
This session will focus upon the history and evolution of commercial crime and related policy forms. The speakers will compare and contrast the coverages and important conditions in the various forms currently on the market and issues involving interpretation of the policy forms.  
**Carol A. Pisano** **Richard S. Mills**  
*McElroy, Deutsch,* *McElroy, Deutsch,*  
*Mulvaney & Carpenter, LLP* *Mulvaney & Carpenter, LLP*  
New York, NY New York, NY
- 8:25 – 9:10 a.m. **EMPLOYEE DISHONESTY/EMPLOYEE THEFT**  
This session will discuss the meaning of employee dishonesty and theft, including the most recent cases under Commercial Crime Policies, as well as a comparison of the manifest intent and theft coverage.  
**Christopher R. Ward** **Thomas McNeill**  
*Strasburger & Price, LLP* *Travelers*  
Dallas, TX Minneapolis, MN

**Sponsorship Opportunities are available.**  
**Contact Wanda Workman for information at**  
**[workmanw@staff.abanet.org](mailto:workmanw@staff.abanet.org)**

9:10 – 9:35 a.m.

#### DEFINITION OF EMPLOYEE

This session will focus upon the persons whose actions can lead to a covered claim under the Commercial Crime Policy, including employees and representatives of the insured as well as the alter ego defense.

**Armen Shahinian**

*Wolff & Samson, PC*

West Orange, NJ

9:35– 9:55 a.m.

#### PANEL DISCUSSION

In this session, a panel of experienced claim professionals will conduct a lively debate about how the above sections of the Commercial Crime Policy are applied to certain fact situations and will field questions from the moderator and audience.

9:55 - 10:15 a.m.

#### BREAK

10:15 - 10:45 a.m.

#### OTHER COVERAGES

This section will focus upon the meaning and construction of the other important coverage of the Commercial Crime Policy, including On Premises, Theft of Money and Securities and Computer Fraud.

**William H. Woods**

*McNamara and*

*McNamara, LLP*

Columbus, OH

**Julie Alleyne**

*The Hartford*

Hartford, CT

10:45 – 11:15 a.m.

#### LIMITS OF LIABILITY

This speaker will discuss the various important issues related to the limits of liability of the policy, including multiple thefts by a single employee, multiple employees involved in a single loss and multiple policies or multiple years.

**Edward G. Gallagher**

*Surety & Fidelity Association of America*

Washington, DC

11:15 –11:30 a.m.

#### INVENTORY LOSS EXCLUSION

This session focuses upon the inventory computation exclusion and how it is applied under different fact patterns.

**Teresa N. Jones**

*Zurich North America*

Baltimore, MD

**D. M. Studler**

*Studler, Doyle & Co., LLC*

Aurora, IL

11:30—11:45 a.m.

#### CAUSATION OF LOSS

This session discusses the causation requirement under the Commercial Crime Policy, including the different ways courts have interpreted the requirement.

**David T. DiBiase**

*Anderson McPharlin*

*& Connors, LLP*

Los Angeles, CA

**Michael B. Mulvey, Jr.**

*AIG Domestic Claims, Inc.*

New York, NY

**NEW!**

CE accreditation has been applied for in all certifying states. Contact Tracey Haley at 800-654-5151 two weeks prior to the conference for confirmation of the number of CE hours and which states have issued certification and which are pending.

11:45 - Noon

#### PANEL DISCUSSION

The morning session finishes with another interactive panel discussion of the issues presented during the second half of the morning.

Noon – 1:30 p.m.

#### LUNCH (On Own)

1:30 – 4:30 p.m.

#### INTERACTIVE WORKSHOPS

Attendees will be placed in one of several workshops designed to challenge both beginning and seasoned commercial crime professionals. The workshop will follow an interactive format which will stimulate through a hypothetical fact pattern, the real-life battlefield conditions that confront those who handle commercial crime claims. The workshop will create the complex and kinetic atmosphere in which decisions about commercial crime claims are made. The attendees will be seated at small tables and work in pre-assigned groups to analyze the information presented, ask questions and request additional information from the case study participants. The focus of the workshops will be on current developments in the law and decision making analysis, as well as issue spotting techniques and strategies for investigating and resolving disputed claims.

4:30 p.m.

#### ADJOURN

5:00 – 6:30 p.m.

#### RECEPTION

### FRIDAY, OCTOBER 6, 2006

7:00 – 8:00 a.m.

#### CONTINENTAL BREAKFAST

8:00 - 8:05 a.m.

#### INTRODUCTION TO SESSION

**Cole S. Kain**  
**Program Co-Chair**  
*Clausen Miller PC*  
Chicago, IL

**Lana M. Glovach**  
**Program Co-Chair**  
*The Hartford*  
Hartford, CT

8:05 - 8:35 a.m.

#### EXCLUSIONS

This section discusses the importance of various exclusions of the policy and the way in which courts have dealt with these exclusions.

**Samuel J. Arena, Jr.**  
*Stradley, Ronon,*  
*Stevens & Young, LLP*  
Philadelphia, PA

**M. Patricia Duffy**  
*The Chubb Group*  
Florham Park, NJ

8:35 - 9:00 a.m.

#### **DUTIES IN THE EVENT OF A LOSS**

This session discusses the insured's duties once it has a loss that is or might be covered by the policy, including when notice must be given, the requirements for the proof of loss, and the effects of the insured's failure to comply with these important duties.

**Keith Witten**  
*Gilliland & Hayes, PC*  
Kansas City, MO

**John J. Tomaine**  
*The Chubb Group*  
Warren, NJ

9:00 - 9:25 a.m.

#### **DISCOVERY**

This session deals with the concept of discovery of loss, including when discovery occurs, who can or must discover a loss, and exactly what must be known for discovery to occur.

**James A. Knox, Jr.**  
*Tressler, Soderstrom,  
Maloney & Priess*  
Chicago, IL

**Sandra M. Stone**  
*The Chubb Group*  
Pittsburgh, PA

9:25 - 9:55 a.m.

#### **THIRD PARTY LOSS**

This session discusses the compensability of third-party losses, including an employee's fraud on third parties and claims by persons other than the insured.

**Scott L. Schmookler**  
*Clausen Miller P.C.*  
Chicago, IL

9:55 - 10:20 a.m.

#### **TERMINATION OF COVERAGE**

This session discusses when and how coverage under the commercial crime policy terminates, and the effect of such termination.

**Martha L. Perkins**  
*Whiteford, Taylor &  
Preston, LLP*  
Washington, DC

**Lana M. Glovach**  
*The Hartford*  
Hartford, CT

10:20 - 10:30 a.m.

#### **BREAK**

10:30 - 11:55 a.m.

#### **PANEL DISCUSSION OF THE ISSUES**

This final panel discussion of the issues and topics features a panel of experts, including the Honorable Paul W. Grimm, Chief Magistrate Judge for the United States District Court, District of Maryland.

11:55 - Noon

#### **CLOSING REMARKS**

**Michael Keely**  
**FSLC Committee Chair**  
*Strausberger & Price, LLP*  
Dallas, TX

# GENERAL INFORMATION

**REGISTRATION DEADLINE: SEPTEMBER 19, 2006 HOTEL DEADLINE: SEPTEMBER 19, 2006**

## ADVANCE REGISTRATION

Visit the TIPS FSLC Annotated Commercial Crime Policy Program website to register at [www.abanet.org/tips](http://www.abanet.org/tips) or complete the registration form included in this brochure.

The registration fee includes admission to the program, course materials, continental breakfast, breaks, and welcome reception and dinner. If you wish to have your name appear on the pre-registration list distributed at the program, ALL registration forms must be received no later than the registration deadline of **September 19, 2006**. Registration reservations will be confirmed in writing within 10 business days.

## ON-SITE REGISTRATION

On-site registrations will be accepted if space is available. Call Kimia Shelby at 312/988-5708 or email [shelbyk@staff.abanet.org](mailto:shelbyk@staff.abanet.org), 72 hours prior to the program to confirm that space is available. On-site registrants must pay the program fee by credit card or check made payable to the American Bar Association. A \$25 fee will be charged to individuals registering on-site.

## CANCELLATION POLICY

No registration fee refunds will be granted for cancellations received after **September 19, 2006**. In order to receive a refund (less a \$100 administrative fee), the ABA must receive written cancellation by **September 19, 2006**. Registrants who are unable to attend may send a substitute or will receive course materials in lieu of a refund.

## HOTEL INFORMATION

### For Reservations call 202/328-2000

A limited number of rooms have been blocked for program registrants of the TIPS Fidelity & Surety Law Fall CLE Program at the Marriott Wardman Park Hotel, 2660 Woodley Road, NW Washington, DC 20008 for a hotel room rate of \$229 single/double plus 14.5% tax. For reservations, please call the hotel directly at 202/328-2000. The room block will be held until exhausted or until Tuesday, September 19, 2006 at 5:00 p.m. (CST). After the meeting specified hotel deadline, reservations will be confirmed based on availability. Please refer to the TIPS Fidelity & Surety Law Fall CLE Program when calling the hotel to make reservations. Hotel check-in is 3:00 p.m. and checkout is 12:00 p.m. (noon). All reservations must be guaranteed by credit card or deposit check. Individuals with guaranteed reservations must cancel their reservations by 72 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge.

## AIRLINE INFORMATION

You are encouraged to make your airline reservations on the ABA Online Travel site where you automatically receive ABA airfare discounts from a variety of carriers and can view and purchase other low fare options including web fares. To access ABA Online Travel, go to [www.abanet.org](http://www.abanet.org) and click on the link at the bottom of the ABA Calendar box. The 24/7 toll-free number for Travelocity Business is 1-866-321-8403.

ABA Discounted Meeting Airfares are available through your travel agent or directly from the airline. Following is the ABA discount code for American Airlines under which your reservations need to be purchased in order to receive either the ABA percentage discount or zone fare.

American Airlines ABA Code: 18395 800.433.1790  
(US domestic and Canada)

## CLE INFORMATION

Accreditation will be requested for this program from every state with mandatory continuing legal education (MCLE) requirements for its lawyers. Please be aware that each state has its own rules and regulations, including its definition of "CLE". Check with your state agency for confirmation of this program's approval. Attorneys seeking to obtain MCLE credit in Pennsylvania are required to pay state accreditation fees directly to that state. Certificates of attendance will be available at the conclusion of the program. In order to receive CLE credit, all attorneys will be required to sign in on the sign in sheets and obtain a Uniform Certificate of Attendance. Registration fees must be paid in full before registrants can receive credit. You may contact Kimia Shelby at 312/988-5708 two weeks prior to the conference for confirmation of the number of CLE credit hours requested by the ABA or credits approved by any particular state.

## MEMBERSHIP INFORMATION

For more information about membership in the ABA or the Tort Trial & Insurance Practice Section (TIPS), please visit us online at [www.abanet.org/tips/about](http://www.abanet.org/tips/about) or call 1-800-285-2221. Membership in TIPS includes three industry-leading periodicals, discounts of up to 20% on many TIPS CLE programs, and other career and practice-enhancing benefits. Join TIPS today!

## PERSONS WITH DISABILITIES

Services for persons with disabilities are available. If special arrangements are required for an individual to attend this program, please notify the ABA promptly at 312/988-5708. Reasonable advance notice is requested.

## GET CONNECTED WITH TIPS!

Information on this and other TIPS CLE programs is available online at [www.abanet.org/tips](http://www.abanet.org/tips). Visit us and get connected!

## SCHOLARSHIPS AVAILABLE!

ATTENTION TIPS MEMBERS: Scholarships are available for all Section activities, courtesy of the TIPS Scholarship Fund. The Fund, established with the International Risk Management Institute ("IRMI") and supported by subscriptions to the IRMI CGL reporter, is intended to increase membership involvement in TIPS' activities among minorities, solo and small firm practitioners, government attorneys, women, and young lawyers by providing financial support to those who would otherwise be unable to participate. To request an application or receive additional information, visit [www.abanet.org/tips/scholarship.html](http://www.abanet.org/tips/scholarship.html) or contact Linda Wiley at 312-988-5673.

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Chicago, Illinois 60610

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