



Fidelity and Surety Roundtable

Impairment of Surety—
Claims Handling and
Legal Perspective

Insight from surety claim managers
and surety law firm panelists

Defense tips for claim representatives,
consultants and attorneys

May 19, 2017

Gleacher Center

University of Chicago

Booth School of Business

Chicago, IL

DRI delivers [resources](#) to build your practice

Owners or claimants are waiting to submit a claim. Substandard work is being performed. Invoices for the supplies are unpaid. Interest and penalties are accruing. How does this impact the surety? The DRI Fidelity and Surety Roundtable allows for an interactive group discussion of the fidelity and surety defenses that may be raised by fidelity insurers and sureties in response to a claim.



Steven L. **Weinberg**
Program Chair



James P. **Green**
Committee Chair



Jeffrey **Goldberg**
Program Vice Chair



Douglass F. **Wynne, Jr.**
Committee Vice Chair

PRESENTED BY **DRI's Fidelity and Surety Committee**






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What You Will Learn


- Strategies for claim evaluation and surety bond lawsuit defense.
- Negotiation techniques for claim handlers and counsel.
- Public officials bond: Who is a claimant?
- Impairment of suretyship and related defenses to claims.

Get Started

- 1 Review the brochure and identify sessions of interest to you
- 2 Share this brochure with colleagues
- 3 **Register online** or complete the **form in the back**
- 4 Share on social media   

Maximize Your DRI Seminar Experience

No one gets you connected like DRI.

- Access the **DRI Fidelity and Surety Committee Community** to network with individual members. Share articles, post blogs, and connect with others on the latest trends in your area of practice.
- Discover the  **DRI Client Connection**—meet in-house and claims professional registrants and speakers.

PROGRAM SCHEDULE

Click on any speaker name to view bio.

FRIDAY, MAY 19

7:00 a.m. **Registration**

7:00 a.m. **Continental Breakfast**


8:00 a.m. **Welcome and Introduction**

Steven L. Weinberg, *Gottesman Wolgel Flynn Weinberg & Lee PC*, New York, NY

8:05 a.m. **“You Have to Be Kidding Me!” What Is the Extent of the Performance Bond Obligatee’s Obligations to the Surety?**

How many times have you been presented with a performance bond claim where an obligee is attempting to palm off its own incompetence as a surety claim? In this session we will explore the extent of the obligee’s duties to the surety of competent project administration, good faith and fair dealing, and mitigation of damages.

David D. Gilliss, *Pike & Gilliss LLC*, Towson, MD

 **Bruce W. Kahn**, *Berkley Surety Group*, Morristown, NJ

8:50 a.m. **Current Issues Faced by the Surety**

A bonded contract and a related, unbonded contract: Must the surety pay for damages on both contracts, and may a claimant recover unbonded contract losses out of the bonded contract balance? Employees complicit in a prevailing wage claim: Fraud, or must the surety pay them? The surety is sued but not the principal: What do the courts say?


Lawrence L. Flynn, *Gottesman Wolgel Flynn Weinberg & Lee PC*, New York, NY

Melissa M. Rice, *Chubb Insurance*, Philadelphia, PA

9:35 a.m. **Public Officials Bonds: Who Is the Obligatee?**

The obligee on a public official bond is defined as the named obligee or those identified by statute. This session will address case law regarding judicial challenges to the definition of an obligee, as well as attempts to certify class actions against the surety.

Ralph J. Kooy, *Dinsmore & Shohl LLP*, Chicago, IL

 **Ira E. Sussman**, *RLI Insurance Company*, Chicago, IL

10:20 a.m. **Refreshment Break**

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10:35 a.m. **Fidelity Policy Claim: “This Never Happened Before... We Had No idea”**

What is the effect of prior dishonesty by a wrongdoer on coverage for a fidelity claim? This session will explore the ins and outs of the defense of knowledge of prior dishonesty to a claim under a fidelity policy.

Keith Witten, *Gilliland & Hayes LLC*, Overland Park, KS

11:20 a.m. **Claims Handling Tips: Getting it Right, Right out of the Gate**

This program will offer tips on the steps you should take as soon as a claim comes in the door to set yourself up for as successful and smooth a claims-handling process as possible. The panelists will discuss, among other issues, checking the policy application for any misrepresentations, when and whether to set up witness interviews, how quickly you need to make a final coverage decision, and the human element of claims handling, including how to defuse a tense situation.

Carla A. Crapster, *Strasburger & Price LLP*, Dallas, TX

Ronald G. Mund, *SDC CPAs LLC*, Aurora, IL

12:05 p.m. **Adjourn**

1:00 p.m. **Wrigley Rooftop Lunch and Baseball Game**
(for information see page 6)

FACULTY

Click on any name to view bio.

Carla A. Crapster, *Strasburger & Price LLP*, Dallas, TX

Lawrence L. Flynn, *Gottesman Wolgel Flynn Weinberg & Lee PC*, New York, NY

David D. Gilliss, *Pike & Gilliss LLC*, Towson, MD

 **Jeffrey Goldberg**, *Swiss Re Corporate Solutions*, Schaumburg, IL

James P. Green, *Wright Green PC*, Mobile, AL

 **Bruce W. Kahn**, *Berkley Surety Group*, Morristown, NJ

Ralph J. Kooy, *Dinsmore & Shohl LLP*, Chicago, IL

Ronald G. Mund, *SDC CPAs LLC*, Aurora, IL

Melissa M. Rice, *Chubb Insurance*, Philadelphia, PA

 **Ira E. Sussman**, *RLI Insurance Company*, Chicago, IL.

Steven L. Weinberg, *Gottesman Wolgel Flynn Weinberg & Lee PC*, New York, NY

Keith Witten, *Gilliland & Hayes LLC*, Overland Park, KS

Douglass F. Wynne, Jr., *Simon Peragine Smith & Redfearn*, New Orleans, LA

View faculty bios on the Fidelity and Surety Roundtable webpage; click on “View speakers” button.

 Denotes **THE DRI CLIENT CONNECTION**: In-house and claims professional speakers

GENERAL INFORMATION

In-House Counsel

In-house counsel are eligible for free registration to DRI seminars. In-house counsel are defined as licensed attorneys, who are employed exclusively by a corporation or other private sector organization for the purpose of providing legal representation and counsel only to that corporation, its affiliates and subsidiaries. In order to qualify for free registration, the individual must also be a DRI member and a member of DRI's Corporate Counsel Committee. Offer excludes the DRI Annual Meeting.

Claims Executives

Any member of DRI employed as a claims professional by a corporation or insurance company, who spends a substantial portion of his or her professional time hiring or supervising outside counsel in the representation of business, insurance companies or their insureds, associations or governmental entities in civil litigation, will be entitled to free attendance at any DRI program. **Limited to one seminar per calendar year.** Offer excludes DRI Annual Meeting.

Roundtable Location

Gleacher Center, University of Chicago Booth School of Business, 450 North Cityfront Plaza Drive, Chicago, IL 60611

CLE/Claims Adjusters Accreditation

This seminar has been approved for MCLE credit by the State Bar of California for up to **3.5** hours credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. **Application has been made for continuing education for claims adjusters.** Credit availability and requirements vary from state to state; please check the DRI website at dri.org for the latest information for your state.

Registration Policy

The registration fee is \$175 for DRI members and \$225 for nonmembers. The registration fee includes course materials, continental breakfast, and the refreshment breaks. If you wish to have your name appear on the registration list distributed at the roundtable and receive the course materials in advance, DRI must receive your registration by **April 27, 2017** (please allow 10 days for processing). Registrations received after **April 27, 2017**, will be processed on-site.

Refund Policy

The registration fee is fully refundable for cancellations received on or before **April 27, 2017**. Cancellations received after **April 27** and on or before **May 4, 2017**, will receive a refund, less a \$100 processing fee. Cancellations made after **May 4** will not receive a refund. All cancellations and requests for refunds must be made in writing. Fax (312.795.0747) or email (seminars@dri.org) to DRI's Accounting Department. Processing of refunds will occur within four weeks after the date of the seminar. All refunds will be processed in the same method that the payment was received. Substitutions may be made at any time without charge and must be submitted in writing.

Discounts

Travel Discounts DRI offers discounted meeting fares on various major air carriers for **DRI Fidelity and Surety Roundtable** attendees. To receive these discounts, please contact Direct Travel, DRI's official travel provider, at 800.840.0908. As always, to obtain the lowest available fares, early booking is recommended.

- The taping or recording of DRI seminars is prohibited without the written permission of DRI.
- Speakers and times may be subject to last-minute changes.
- DRI policy provides there will be no group functions sponsored by others in connection with its seminars.

CLE for Your Practice

View all Continuing Legal Education offerings

April 5–7
Insurance Coverage and Claims Institute
Loews Chicago Hotel, Chicago, IL

April 26–28
Life, Health, Disability and ERISA
Swissôtel Chicago, Chicago, IL

May 4–5
Retail and Hospitality Litigation
Loews Chicago Hotel, Chicago, IL

May 11–12
Appellate Advocacy
Sheraton New Orleans, New Orleans, LA

May 11–12
Business Litigation
Loews Chicago Hotel, Chicago, IL

May 11–12
Drug and Medical Device
Sheraton New Orleans, New Orleans, LA

May 11–12
Intellectual Property
Gleacher Center, Chicago, IL

May 17–19
Employment and Labor Law
Hilton Nashville Downtown, Nashville, TN

May 31–June 2
Insurance Bad Faith and Extra-Contractual Liability
Hyatt Regency Boston, Boston, MA

June 15–16
Diversity for Success
Swissôtel Chicago, Chicago, IL

June 21–23
Young Lawyers
The Westin Austin Downtown, Austin, TX

June 22–23
Marijuana Law
Hotel 1000, Seattle, WA

July 20–21
Class Actions
The Westin Washington DC City Center, Washington, DC

September 7–8
Cybersecurity and Data Privacy
Westin Michigan Avenue, Chicago, IL

About the Committee

Visit the **Fidelity and Surety Committee** page on dri.org for information about the committee and related resources.

Hotel Accommodations

A limited number of discounted hotel rooms have been made available at the **Loews Chicago Hotel, 455 Park Drive, Chicago, IL 60611** ([click here](#) to view hotel photos).

Take advantage of the group rate of **\$239 Single/Double** in one of two ways:

- 1) Reserve online: [Click here](#) or visit dri.org and go to the **DRI Fidelity and Surety Roundtable** page and click on the “Book hotel” button.
- 2) Or **contact the hotel directly at 312.840.6600** and mention the **DRI Fidelity and Surety Roundtable**.

The hotel block is limited and rooms and rates are available on a first-come, first-served basis. You must make reservations by **April 20, 2017**, to be eligible for the group rate. Requests for reservations made after **April 20, 2017** are subject to room and rate availability.

SEMINAR SPONSORS

DRI wishes to thank our sponsors for their support at this year's seminar!

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NETWORKING EVENTS

Thursday, May 18

Chicago Surety Claims Association (CSCA) Lunch

To register for the lunch, please contact Dave Matthews at dave_matthews@swissre.com or Sue Ansel at susan_ansel@swissre.com by May 11.

Networking Dinner

Gather for a great networking dinner (at no cost to surety company personnel; others pay their own way). For more information, please contact Jim Green at jimgreen@wrightgreen.com.

Friday, May 19

Wrigley Rooftop Lunch and Baseball Game

Come watch the Milwaukee Brewers take on the World Champion Chicago Cubs. For more information and to reserve a ticket, please contact Amy Wolgel at awolgel@gottesmanlaw.com.



Diversity and Inclusion in DRI: A Statement of Principle

DRI is the largest international membership organization of attorneys defending the interests of business and individuals in civil litigation.

Diversity is a core value at DRI. Indeed, diversity, which includes sexual orientation, is fundamental to the success of the organization, and we seek out and embrace the innumerable benefits and contributions that the perspectives, backgrounds, cultures, and life experiences a diverse membership provides.

Inclusiveness is the chief means to increase the diversity of DRI's membership and leadership positions. DRI's members and potential leaders are often also members and leaders of other defense organizations. Accordingly, DRI encourages all national, state, and local defense organizations to promote diversity and inclusion in their membership and leadership.

May 19, 2017 | Gleacher Center, University of Chicago
Booth School of Business | Chicago, IL

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to fax or mail

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Please list any special needs _____

Are you a first-time attendee at this DRI seminar? ☐ Yes ☐ No

How many attorneys are in your firm? _____

What is your primary area of practice? _____

Registration fee includes seminar attendance, course materials, continental breakfast and a refreshment break. DRI will email a link to download the course materials to all registrants two weeks in advance of the seminar.

☐ Member \$175☐ Nonmember \$225☐ In-House Counsel Member* FREE☐ Claims Executive Member/Nonmember* FREE☐ Surety Company Representative** FREE

* As defined on page 4.

****Must call DRI customer service to register.**

For inclusion on the preregistration list and to receive course materials in advance, **register by April 27, 2017.**

☐ My check for _____ (USD) is enclosed.

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Fidelity and Surety

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Signature _____

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