



2024 Professional Liability Practice Group Seminar

November 8, 2024

Company or Crowd? How to Make the Parts of the Tripartite Relationship Fit

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Intro – Identifying the Tripartite Relationship in its Ideal Form

Who's the client?

The two-client theory vs. one-client theory vs. third-party payor theory

Potential Conflicts – Circumstances (and policy language) that can stress the relationship and how to navigate them

Insured and insurer disagree over what is covered (and the reservation of rights)

Potential damages exceed the available coverage

When limits are eroded by defense costs

Discovery generates information suggesting a potential coverage defense

When punitive damages are claimed but excluded by the policy

When the insurer seeks to limit discovery to decrease defense costs

Potential for Mixed Signals – Seeing the big picture and keeping everyone on the same page

Preventing the insured from taking a claim personally (and venting at mediation or worse)

Helping the insured see the big picture when settlement is in its best interest (especially when the insured may have been at fault)

Helping an insured understand consent and cooperation clauses

When and how to drop the hammer (appropriate use of the hammer clause)

Other Considerations

The ethics code as a guide

Recent cases that illustrate the importance of navigating the tripartite relationship

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