

RIMS SILICON VALLEY, JUNE 22, 2017 FRIENDS WITH (INSURANCE) BENEFITS

Managing the Difficult Claim: When and How to Partner with Legal

Involving outside counsel

- When
- How risk management, inside, and outside counsel should work together
- Costs and benefits of outside counsel

Assessing the denied claim

- Underwriting
 - What does the company do?
 - What's the insurance really for?
 - Loss
 - Event
 - Repair/restoration
 - No detail too large
 - The Story
 - The Storyteller
 - Policy Interpretation
 - Three-part analysis: underwriting and loss together inform the policy interpretation
 - Policy provisions
 - If provisions are unclear, consider the reasonable expectations of the insured
 - If still unclear, the policy is interpreted in favor of the insured
- AIU Ins. Co. v. FMC Corp.*, 51 Cal.3d 807, 822-23 (1990)

There's Bad, and There's Bad Faith

- Unreasonable denial of insurance benefits is a breach of the obligation of good faith and fair dealing. CACI § 2331.

Lawsuit Life Cycle

- Demand letter
- Complaint
- Discovery and pretrial motions
- Trial
- Alternative dispute resolution
 - Arbitration
 - Mediation
- Settlement – when do you know it's time?



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