

# All Sums, Reallocation & Settlement Credits Audiocast\*



February 17, 2010, 12:00 PM ET-3:30 PM ET

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**12:00 The Fundamentals: “All Sums” Versus Pro Rata Allocation, Terminology, and a Look Ahead**

- “All sums” versus “pro-rata” allocation: the policy-language underpinnings of the competing approaches, and how they play out in practice
  - Relationship with the governing “trigger” of coverage and divisibility of covered harm
  - Discussion of other allocation approaches
  - Mastering the terminology: all sums, pro-rata, Owens-Illinois, the “spike,” Keene, reallocation through contribution claims, settlement credits, claim-bar orders, and more
  - The state scorecard
  - Trends in case law and legislative approaches
- Seth Tucker, Esq., Covington & Burling LLP, Washington, D.C.  
Jodi McDougall, Esq., Cozen O’Connor, Seattle

**1:00 The Fundamentals Part II: Exhaustion of Limits and Related Issues-How Triggered Primary and Excess Policies Respond to Claims in an All-Sums Environment**

- Methods of exhaustion: vertical versus horizontal, policy-language underpinnings, case law, and practical results
  - “Stacking” of limits—permitted? Effect of anti-stacking clauses
  - How do multi-year policies respond to continuous-injury claims?
  - Differences between treatment of primary and excess policies
  - Number of occurrences
- Michael Ginsberg, Esq., Jones Day, Pittsburgh  
John Husmann, Esq., Bates & Carey LLP, Chicago  
Patrick McGrath, Managing Director, Navigant Consulting, Inc., Chicago

**2:00 Afternoon Break**

**2:15 What Happens After the “Spike”?:  
Reallocation and Application of All Sums in the Settlement Context**

- Reallocation options for the “spiked” insurer: contribution claims against other insurers
  - Can a non-settled insurer sue a settled insurer for contribution?
  - Credit to the non-settling insurer for settled policy limits—methods and practical results
  - Credit based on pro-rata limits
  - Credit based on actual amounts of settlements
  - The all-sums rule in the settlement context: strategies and practical tools for reaching non-global coverage settlements
- David Schoegg, Esq., Mills Meyers Swartling, Seattle  
Martin Pentz, Esq., Foley Hoag LLP, Boston  
Elizabeth Hanke, Vice President, Kenesis Corporate and Information Consulting, Washington, D.C.

**3:15 Question & Answers**

**3:30 Adjourn**