



2021 Annual Conference
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Shades of Grey: Ethical Considerations in Multi-State Claims Handling

Today, claims professionals and attorneys handling coverage, litigation, and transactions must work across state lines and in multiple states at once. This raises several ethical and professional responsibility considerations, including codes of conduct, bar rules, and ethical canons in the various states. This session discusses the rules of the road for inter- and intra-state matters, even when those rules fall into murkier gray areas.

Shade 1 – The tripartite relationship

- A discussion of the ethical obligation in the tripartite relationship

The tripartite relationship between an adjuster, and attorney, and the insured/client is a unique relationship that can in turn present unique ethical dilemmas. It is important for agents and attorneys alike to have a thorough understanding of what duties are owed and to whom they are owed when faced with these challenges. This brief discussion of the tripartite relationship and the ethical considerations that accompany the relationship sets the stage for remainder of the course material where we discuss specific rules, regulations, and their application to specific scenarios.

Shade 2 – To license or not to license, that is the question.

- “Florida Man...”
 - How many bar exams do I really need to take?

A lawyer’s decision on how many states and/or federal courts they needed to be licensed/admitted used to be driven primarily by their physical location in connection with their area of practice. In a world that is “shrinking” day-by-day with the evolution of technology and affordable travel, physical distance is becoming less and less of a factor in this determination. This portion of the course provides a quick look into the current state of legal licensing requirements and reciprocity agreements that impact lawyers and the agents that look to engage their services. Of course, there’s always Florida...

- Adjusting to the Circumstances
 - How many adjuster licenses do I need to have?

While the world of claims adjustment (much like legal licensing) marches closer to a more uniform structure that fits more appropriately with the modern world, there are still exceptions to that trend that require additional or special adjuster licenses. This portion of the course analyzes some best practices to use when analyzing which licenses are necessary and which ones you could easily get yourself in trouble for not having. (Hint: it is Florida again....)

Shade 3 – Adjuster Ethics

- Jetsetter
 - I am licensed in CA and TX- Can I adjust a claim in FL?

The “Big Three” states, all in one discussion. This portion of the course includes an analysis of the requirements to adjust claims in California and Texas as well as Florida Statutes Chapter 626 Part VI regarding Insurance Adjusters and applicable statutes for adjusting claims with and without a Florida license. It also includes a brief look into the reciprocity agreements on continuing education and ethics training to ensure you do not find yourself short on your requirements.

- I am my Brother’s Keeper.
 - If I hire an IA in a state where I am not licensed (or where I am), am I responsible for them?
 -
- Do as I Say, Not as I Do
 - Do I have to be licensed in every state to manage adjusters licensed in every state?
 -
- #NotMyAdjuster
 - Analysis of the pros and cons of engaging independent adjusters v. public adjusters across state lines

There are several factors to consider when deciding to engage an independent or public adjuster, and those considerations are compounded when the engagement is set to occur across state lines. What additional rules, regulations, and ethical considerations apply, and which do not? This portion of the course will help participants identify the additional factors not often considered while making their engagement determination.

- One of These Things is Not Like the Other...
 - How many claims is too many -Are 60 identical single-family home claims the same as 60 hurricane damage claims the same as 60 auto accident claims the same as 60 products liability claims the same as 60 luxury condominium claims, etc.?

Everyone wants to be known as an effective and efficient licensee that can handle a claim to successful closure within a relatively short time frame. But the meaning of the terms “effective” and “efficient” can vary with the subject matter of a claim. This portion of the case provides licensees with insight into the specific nuances required by various types of claims and how “success” in handling a claim is not always defined by quantity.

- Handling claims where multiple defendants are covered by the same insurance policy (Named Insured/Additional Insured, Doctor/Hospital, Lawyer/Law Firm, etc.)

In a perfect world, all defendants covered by a single insurance policy will always have their interests perfectly aligned, but if we learned anything in 2020, it is that we do not live in a perfect world. This portion of the course helps a licensee analyze what duties and ethical obligations apply when multiple insureds in the same claim have interests that diverge or become flat out adverse to one another.

Shade 4 –Attorney Ethics

- Can I do this?
 - Which state rules of professional responsibility apply when licensed/practicing in more than one state?

This section of the course includes an analysis of the ABA Model Rules of Professional Conduct R. 5.5 (the unauthorized practice of law) and state-specific rules of professional conduct and responsibility that both derive and diverge from Rule 5.5.

- Should I do this?
 - Which state ethical considerations apply when licensed/practicing in more than one state?

This section of the course includes an analysis of the ABA Model Rules of Professional Conduct R. 8.5 (disciplinary authorizes and choices of law) and state-specific rules of professional conduct and ethical responsibility that both derive and diverge from Rule 8.5.

Shade 5 – The Consequences- Illustrative Case Discussion

- “Whenever I'm about to do something, I think, 'Would an idiot do that?', and if they would, I do not do that thing.” –Dwight Schrute

The course concludes with everyone is favorite- story time. The final portion of the course assorted case studies of specific facts and circumstances addressed by various state and federal courts and regulatory boards regarding multi-jurisdictional practice and claims adjustment. These cases studies range from an analysis of the potential ramifications of bad faith negotiation to the consequences of “doing a favor” for your in-laws in Colorado and everything in between.