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Sexual Abuse Litigation - Defending the Institution not the Perpetrator

The scope of abuse litigation is staggering, from religious orders, educational systems, social/fraternal organizations, youth organizations, sports leagues to elder abuse and neglect in nursing and assisted living facilities to claims revived against Michael Jackson's Estate. These presenters have seen it all and then some.

Regardless of whether your practice, employer or area of claims, your organization may be touched in some significant manner by the scope and breadth of the litigation over industries, socioeconomic strata and demographics as well as the fundamental changes in laws to revisit compensation and manifest public admonishment in response to the lasting impact of abuse. This panel brings together 4 individuals with over 30 years of handling and defending abuse and molestation claims. The panelists will cover the evolution of the litigation, the theories of liability and best claims practices to manage the litigation and risks associated with this highly stigmatized litigation

The panel will expand your understanding and appreciation of what civil abuse and molestation litigation is and what industries are (not) immune from these claims. We will cover where litigation is going and how to prepare and defend your insureds and clients who are alleged to have some civil liability. The panelists will suggest strategies for risk management, reputational protection and cost control.

Beginning with taking advantage of impaired, vulnerable people who may be of a diminished capacity to the abuses of faith, the culture of silence, shame and power inequities in employment to the modern #METOO movement, a lifetime of abuses are now coming to light. As a society of laws, we are now confronting the damage in monetary terms. The pendulum has swung to the opposite side in term of legislation to reopen claims, voluntary monetary funds by large organizations to counsel and support victims and most recently bankruptcy trusts, but our charge in defending your insureds has not fundamentally changed. We still need to ask the question whether the alleged abuse happened, why and how did it happen, was our insured or client negligent and what is that worth.

The panel will address the changing how the traditional tools of defense, suspension of the rules of evidence and public scrutiny have spawned potentially questionable claims with little to no supporting documentation.

The potential defendants can run the gamut, but research suggests that the origin and ingredients for the claims (outside of the criminality) require either a trust, confidence or power

imbalance relationship, the potential for anonymity, silence and privacy. While the perpetrator likely has some level of disassociation from the common morality of inappropriate behaviors, our insureds so too are alleged to have turned an eye or ear to the potential for such acts and by that omission may be liable civilly for the acts of their employees or members. The panel will address the need for empathy and compassion but the strength to assert the available defenses which each insured is entitled to under the law. In doing so the panelists will stress that just because a person was abused is not negligence per se for your insured. A vigorous and dispassionate investigation must be performed for the specific insured and it's/his/her alleged involvement and liability.

Of course, for most of the audience the fundamental question is whether abuse or molestation claims are covered and to what extent. From an underwriting and coverage standpoint, the panel will discuss the evolution of and type of policies which may be at issue and the insurability of known risks or known practices.

We will give the attendee an insight on how these claims are investigated pre-complaint, during litigation and for settlement purposes as well as an insight into preparing a defense theme for trial if necessary. In that regard we will help you understand how to value claims for settlement and trial purposes and establishment of reserves. This requires an understanding of the recent and future changes statutory changes to states' statute of limitations, liberalization and relaxation of the rules of evidence and the realities of trial and judgment by social media coverage.

Finally, in closing the panelists will offer their commentary and Best Practices on the lasting impact on the cases in terms of Meghan's Law and necessity of background screening checks to the mandatory reporting requirements in certain industries or sectors impacting the ability (and tactical desirability) to settle a claim confidentially.