

Lloyd's and Equitas 2002

Essential Intelligence for US Coverage Lawyers™

SECOND ANNUAL CONFERENCE

MAY 14-15, 2002

MILLENNIUM KNICKERBOCKER HOTEL,
CHICAGO IL

Presented by Bartsky Legal Texts Ltd., London and sponsored by

American Bar Association
SECTION OF LITIGATION
Insurance Coverage Litigation Committee

and



ILLINOIS STATE
BAR ASSOCIATION

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latest information and online registration!**

WELCOME

Welcome to the second annual **LLOYD'S AND EQUITAS: ESSENTIAL INTELLIGENCE FOR US COVERAGE LAWYERS™** conference. Our conference last May was a great success. We are confident that this year's event will be an even bigger one. The London insurance market continues to be a fertile source of legal issues and problems, not all of them always correctly understood or optimally handled by US coverage lawyers. Like last year, this conference will provide delegates with concentrated, practically useful detail without superficiality, ambiguity or Lloyd's/Equitas mythology. Highlights of this year's conference include sessions on:-

- ➔ the latest market developments and legal controversies, including current investigations into Lloyd's and Equitas in the US and Europe
- ➔ professional ethics in relation to insurance generally and the London market particularly, such as acting — in-house and externally — for Lloyd's brokers, Lloyd's managing agencies and insurers
- ➔ reinsurance-to-close at Lloyd's and at Equitas: a recondite and misunderstood fundamental just got a lot easier
- ➔ the Equitas enterprise's possible insolvency, especially including relevant insolvency precipitates and processes such as liquidation, administration, and Proportionate Payment Plan
- ➔ Equitas claims-notification and claims-handling issues, especially concerning asbestos-related claims, and the claims broking duties of the Lloyd's broker
- ➔ coverage litigation and arbitration: suing Lloyd's and Equitas: who to sue; how to formulate your claim; jurisdictional issues; federal diversity jurisdiction; maximizing the value of discovery and depositions; arbitral procedure; and dispute resolution ethics

This year, we are also delighted to offer the orientational **GETTING THE MOST OUT OF LLOYD'S AND EQUITAS 2002**, a preliminary double session of plain speaking on the basics of the Lloyd's and Equitas enterprises, equipping you to deal fluently with such fundamentals as syndicates, syndicate-years-of-account, trust deeds, slips, claims, who to sue in a "London" coverage case, the Equitas enterprise, and more.

The fundamentals and intricacies of how Lloyd's and Equitas *really* work are seldom examined or discussed, let alone openly explained by experts accurately, cogently, concisely and comprehensively. We believe that the **ESSENTIAL INTELLIGENCE FOR US COVERAGE LAWYERS™** available at **LLOYD'S AND EQUITAS 2002™** will rapidly and dramatically empower you in your coverage practice. ■

ORGANIZING COMMITTEE

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LLOYD'S AND EQUITAS 2002 Speakers include:-

Eugene **ANDERSON** (Anderson Kill & Olick PC, New York NY)

Roberta **ANDERSON** (Kirkpatrick & Lockhart LLP, Pittsburgh PA)

Richard **ASTOR** (Barrister, Astor Law Firm, London)

Edward **BEDER** (Spriggs & Hollingsworth, Washington DC)

Henry **BOOTH** (R. M. Fields International, LLC, Philadelphia PA)

John **BUTCHER** (Butcher & Widlund LLC, Denver CO)

Michael **CASS** (R. M. Cass Associates, Chicago IL)

Paul **DEL VECCHIO** (Kirkpatrick & Lockhart LLP, Pittsburgh PA)

Richard **FIELDS** (G-Risk, London)

Stan **GARLINGTON** (former insurance regulator, Alaska)

Stephen **GOLDMAN** (McKenna & Cuneo LLP, Washington DC)

David **GRAIS** (Gibson Dunn & Crutcher, New York NY)

Edward **GRASS** (Shaw Pittman LLP, Washington DC)

David **GREENWALD** (Jenner & Block LLC, Chicago IL)

John **HEINTZ** (Gilbert Heintz & Randolph LLP, Washington DC)

Robert **HUGHES** (Robert Hughes Associates Inc., Richardson TX)

Ronnie **JOHNSON** (McGlinchey Stafford PLLC, Baton Rouge LA; former insurance regulator, Louisiana)

Teresa **LA LOGGIA** (Dickstein Shapiro Morin & Oshinsky LLP, Washington DC)

Benedict **LENHART** (Covington & Burling, Washington DC)

Stephen **MASON** (Jackson, DeMarco & Peckenpaugh, Westlake Village CA)

Marc **MAYERSON** (Spriggs & Hollingsworth, Washington DC)

Ellis **MEDOWAY** (Archer & Greiner PC, Newark NJ)

Mitchell **ORPETT** (Tribler Orpett & Crone PC, Chicago IL)

Jerry **OSHINSKY** (Dickstein Shapiro Morin & Oshinsky LLP, Washington DC)

Michael **QUINN** (Bell, Turney, Coogan & Richards, Austin TX)

John **SHUGRUE** (Zevnick Horton, Chicago IL)

David **STEUBER** (Howrey Simon Arnold & White LLP, Los Angeles CA)

Wes **SUNU** (Tribler Orpett & Crone PC, Chicago IL)

John **SYLVESTER** (Kirkpatrick & Lockhart LLP, Pittsburgh PA)

Charlotte **WAGER** (Jenner & Block LLC, Chicago IL)

Chris **WINANS** (Morgan Stanley, New York NY)

and others to be announced!

May 14, 2002: DAY 1: orientation — ethics — money — insolvency

7.30 - 10am **BUFFET BREAKFAST**

8.10am **DAY 1 WELCOME**

*Marlene Kurilla (Cremer, Kopon, Shaughnessy & Spina LLC, Chicago IL) —
for the Illinois State Bar Association*

GETTING THE MOST OUT OF LLOYD'S AND EQUITAS 2002

8.15 - 9am **BASICS I : ORGANIZATION AND TERMINOLOGY**

David Greenwald (Jenner & Block LLC, Chicago IL); Roberta Anderson (Kirkpatrick & Lockhart LLP, Pittsburgh PA); Ellis Medoway (Archer & Greiner PC, Newark NJ)

London market organization, components and vocabulary; syndicates, syndicate-years-of-account; SYA operating years; underwriting years; policy years; members of Lloyd's; SYA participants; managing agencies; brokers; slips and other insurance sales devices; insurance contracts, policies and certificates; insurance, reinsurance and reinsurance-to-close; introduction to the Equitas enterprise

9 - 9.45am **BASICS II : CONTRACTS, COVERAGE AND DISPUTE RESOLUTION**

Charlotte Wager (Jenner & Block LLC, Chicago IL); Eugene Anderson (Anderson Kill & Olick PC, New York NY)

Basic contractual, coverage and dispute resolution; conditions precedent and subsequent; innominate terms; construction; governing law; adjudicating forum; service-of-suit clause; arbitration versus litigation; personal and subject-matter jurisdiction; allocation; "occurrence"; "claims made"; claims notification; document archaeology

10 - 10.30am **UPDATE : LATEST MARKET DEVELOPMENTS AND CONTROVERSIES**

Teresa La Loggia (Dickstein Shapiro Morin & Oshinsky LLP, Washington DC)

The very latest legal, financial and technical news from Lloyd's and Equitas; 9-11's effect on Lloyd's and Equitas

10.30 - 11am **ETHICS IN YOUR LLOYD'S AND EQUITAS PRACTICE**

Michael Quinn (Bell, Turney, Coogan & Richards, Austin TX); other speakers to be announced

Disclosure obligations to the client regarding counsel's competence to deal with Lloyd's and Equitas matters; obtaining competency in insurance law, both English and American, including issues of insurance ethics on both sides of the Atlantic; duty-interest conflicts peculiar to Lloyd's; ethical issues confronting insurance counsel generally, including issues confronting policyholder counsel retained by the insurer. The discussion will revolve around the ABA's Model Rules, the common law of fiduciary duties as applied to lawyers, the common law of lawyer malpractice, and insurance law

11 - 11.15am **BREAK**

11.15 - 11.45am

REINSURANCE-TO-CLOSE : A DETAILED EXAMINATION

Richard Astor (Barrister, Law Office of Richard J. Astor, London)

Misunderstanding, misdescription, misinformation; RTC has nothing to do with reinsurance; critical survey of English and US judicial decisions; relevant contracts, policies, Lloyd's byelaws, customs, rules; extent to which Lloyd's practices bind third parties; assumption of personal liability and running-off distinguished; relevance of that distinction to Equitas Re; types of RTC: conventional RTC before R&R conventional RTC after R&R EquitasRe-RTC; parties to the RTC transaction: at Lloyd's, it involves the entire Lloyd's enterprise; novation-by-custom; equitable novation? Relevant personal-use and common-use, dedicated and not-dedicated, trust and not-trust recourse funds; the Old and New Central Funds; the Equitas American, Canadian, Australian and other trust funds; other claims securitization funds at Lloyd's and Equitas

11.45am - 12.15pm

LET THE ACCOUNTANTS, AUDITORS AND ANALYSTS SPEAK!

Chris Winans (Morgan Stanley, New York); other speakers to be announced

Accounting and auditing standards, conventions and practices at Lloyd's and Equitas; asbestos issues; interpreting SYA accounts; interpreting Lloyd's "global" accounts; interpreting the accounts of the corporation called "Lloyd's"; interpreting accounts of Equitas Holdings Ltd.; credit rating agencies: the rating process; who pays them; equity analysts; sources of advice and information

12.15 - 1.30pm

BUFFET LUNCH

1.30 - 2.15pm

INSECURITY AT EQUITAS I : INSOLVENCY PRECIPITATES

insolvency experts from London to be announced: visit www.insurance-2002.net for latest info

Certified Trigger Events; Automatic Trigger Events; Equitas board resolutions; Equitas general meetings; winding-up resolutions; voluntary and compulsory winding-up; policyholders' Insurance Companies Act 1982, s.53 application for winding-up order; Financial Services Authority's Insurance Companies Act 1982, s.54 application for winding-up order; "the thin regulatory line" (what happens, and what should happen, regulatorily if Equitas pleads poverty too much); how the new Financial Services and Markets Act 2000 regime impacts on insurance insolvency; effect of that Act's repeal of Insurance Companies Act 1982

2.15 - 2.45pm

INSECURITY AT EQUITAS II : INSOLVENCY PROCESSES

insolvency experts from London to be announced: visit www.insurance-2002.net for latest info

Proportionate Payment Plan; Retrocession Plan; liquidation; provisional liquidation; receivership (third party securitization); Companies Act 1985, s.425 scheme of arrangement; Insolvency Act 1986, Part I voluntary arrangement; Insurance Companies Act 1982, s.58 court-approved reduction; EU Directive 2001/17/EC (reorganization and winding-up of insurance undertakings); relevant US state insurance insolvency devices and remedies; priorities; preferences; dash-for-cash; policyholder supervision; adjudication and supervision by policyholder committees; relevant civil and criminal misconduct; effect of Equitas meltdown on current Lloyd's enterprise

2.45 - 3.30pm

INSECURITY AT EQUITAS III : POLICYHOLDER RECOURSE

John Sylvester (Kirkpatrick & Lockhart LLP, Pittsburgh PA); Stephen Goldman (McKenna & Cuneo LLP, Washington DC)

Sources of money at Lloyd's to pay claims; policyholder recourse to trust and other claims securitization funds; relevance to policyholders of cash calls and the Central Fund; contingent debtors; formulating, quantifying and marshalling claims; appropriate and correct defendants; discovery; claims aggregation devices; obtaining pre-judgment security; enforcement of judgments; freezing assets; court processes to preserve and distribute assets; declaratory judgment actions; direct action against trust and other claims securitization funds; recourse to the Lloyd's enterprise if Equitas becomes insolvent by the policyholder, Equitas, and EquitasRe-RTCed SYA participants

3.30 - 3.45pm

TEA

3.45 - 4.30pm

LONDON COMPANY INSOLVENCY

Edward Beder (Spriggs & Hollingsworth, Washington DC); other speakers to be announced

Schemes of arrangement; KWELM; settling relevant claims; selling relevant claims including rights to coverage

4.30 - 5.15pm

SETTLING WITH LLOYD'S, EQUITAS AND THE INSOLVENT LONDON MARKET

Richard Fields (G-Risk, London); Ben Lenhart (Covington & Burling, Washington DC); other speakers to be announced

Settlement agreements; settlement tactics; settlement economics; discounts for ignorance and myth; leverage, if you know how; buy-backs; third-party beneficiary issues; actually getting paid; remedies for breach of settlement /payment agreements; innovative settlement arrangements

6.30 - 8pm

CONFERENCE COCKTAIL PARTY *sponsored by Jenner & Block LLC, Chicago*

May 15, 2002: DAY 2: regulation — claims — dispute resolution

7.45 - 8.30am

BUFFET BREAKFAST

8.30am

DAY 2 WELCOME

Stephen Goldman (McKenna & Cuneo LLP, Washington DC) — for the American Bar Association's Litigation Section's Insurance Coverage Litigation Committee

8.30 - 9.15am

REGULATION OF THE LLOYD'S AND EQUITAS ENTERPRISES

Eugene Anderson (Anderson Kill & Olick PC, New York NY); Stan Garlington (former regulator, State of Alaska); Ronnie Johnson (McGlinchey Stafford PLLC, Baton Rouge LA; former regulator, State of Louisiana); other speakers to be announced

Self-regulation; external insurance regulation; external financial-protection regulation; Financial Services Authority (UK) and the lessons learned from the insolvencies of Independent Insurance and Equitable Life; New York Insurance Department; other US state insurance departments; National Association of Insurance Commissioners; what the regulator should do if the regulatee pleads poverty; interface between regulator and regulatee; regulator susceptibility to regulatee myth and misinformation; regulator supervision resources; politics of regulation; post-9.11 funding requirements; special regulatory concerns in relation to the Equitas enterprise; relevance and significance of Equitas' pleas of financial insufficiency; the United States Postal Service's criminal investigation into Lloyd's; the European Commission's current investigation into the UK Government's regulation of Lloyd's; possible investigations into the origins and financing of Equitas; current and imminent litigation by Names against Lloyd's

9.15 - 10am

CLAIMS AND CLAIMS PAYMENTS AT LLOYD'S AND EQUITAS

Marc Mayerson (Spriggs & Hollingsworth, Washington DC); John Heintz (Gilbert Heintz & Randolph LLP, Washington DC); Jerry Oshinsky (Dickstein Shapiro Morin & Oshinsky LLP, Washington DC)

Making a claim: how to notify a claim; the peculiar role and responsibilities of the Lloyd's broker; how to comply with claims notification requirements; those requirements as conditions precedent to insurer liability; insurer allegations re defective notification; which broker; which broker office; agent-for-notice; Lloyd's policy claims notification wording (construction of the word "underwriters"); law and practice on claims handling; relevance of governing law to claims

handling; reserving rights; without-prejudice and ex gratia payments; special considerations in claiming against Equitas; asbestos claims against Equitas; Equitas claims documentation requirements; claims handling, funding and paying at Equitas; environmental clean-up claims; current tendencies and practices at Lloyd's and Equitas: paying other than 100%; covert schemes of arrangement; commutation; relevance of discounts; developments in bad-faith conduct

10 - 10.15am

BREAK

10.15 - 11am

COVERAGE DISPUTES AT LLOYD'S AND EQUITAS : WHOM AND HOW TO SUE?

Edward Grass (*Shaw Pittman LLP, Washington DC*); **Paul Del Vecchio** (*Kirkpatrick & Lockhart LLP, Pittsburgh PA*); **David Grais** (*Gibson Dunn & Crutcher, New York NY*)

Correct and incorrect defendants; identifying and serving the correct defendants; which insurers do you have to name; effect of reinsurance-to-close on insurance contract privity; US federal or state court; diversity and other jurisdictional issues; enforcing against the correct claims securitization funds and defendants; settlement modelling; suing Equitas: some classic errors

11 - 11.45am

REINSURANCE ARBITRATION AGAINST LLOYD'S AND EQUITAS

Wes Sunu (*Tribler Orpett & Crone PC, Chicago IL*); **Michael Cass** (*R. M. Cass Associates, Chicago IL*); **Mitchell Orpett** (*Tribler Orpett & Crone PC, Chicago IL*)

Arbitration clauses in reinsurance contracts; arbitration involving Equitas; how reinsurance arbitration differs from reinsurance litigation; finding an arbitrator; appointing an umpire; rules about ex parte communication with your arbitrator; discovery in reinsurance arbitrations; how is the hearing conducted; the award: substance and procedure

11.45am - 12.30pm

DISCOVERY AGAINST THE LONDON COMPANY MARKET : NEW FRONTIERS

Robert Hughes (*Robert Hughes Associates, Richardson TX*); **Henry Booth** (*R.M. Fields International, LLC, Philadelphia PA*); **John Shugrue** (*Zevnick Horton, Chicago IL*); **David Steuber** (*Howrey Simon Arnold & White LLP, Los Angeles CA*)

Insights and common difficulties regarding discovery issued in litigation involving London; adding outside parties in order to avoid the Hague Convention; uncovering evidence of Lloyd's and London Market contracts

12.30 - 1pm

CASE NOTES: COVERAGE LITIGATION : CASE EXPERIENCES AND ETHICAL CHALLENGES — followed by Conference Wrap-Up

John Butcher (*Butcher & Widlund LLC, Denver CO*); **Russell Carpenter** (*Covington & Burling, Washington DC*); **Stephen Mason** (*Jackson DeMarco & Peckenpaugh, Westlake Village CA*); *other speakers to be announced*

Litigation against Lloyd's by members of Lloyd's; litigation against SYA participants on very old policies; litigation against Equitas; litigation against Lloyd's brokers for failure to broke claims properly; ethical challenges and dilemmas during the conduct of insurance litigation.

registration and other information

GENERAL INFORMATION: For up-to-date program information, please visit our website, www.insurance-2002.net. To request more information, request an update of your registration status, request program materials, flag subjects you would especially like to see covered at the conference, notify substitutions and cancellations, or for any other questions, issues or comments, please e-mail us at communicate@insurance-2002.net. We reserve the right to amend the program in our discretion.

REGISTRATION AND CONFIRMATION

We have appointed Technical Registration Experts, Inc. (T-REX) to manage registration and process payments. T-REX can be reached toll-free at (877) 309 1565 or (630) 262 1599. You can register: ● by **mail** : Please complete the registration form at the end of this brochure and mail it with your payment to T-REX, 13 South 2nd Street, Geneva, Illinois, 60134; or ● by **fax** : You can fax your completed registration form to T-REX at (630) 262 1520. Accompanying checks should be mailed to T-REX at the above address; or ● **online** : Register and pay securely online via www.insurance-2002.net. *On receiving your paid registration, we will promptly mail you a receipt plus confirmation of your attendance.* ● **onsite** : Onsite registration will be accepted subject to space. Please e-mail us at communicate@insurance-2002.net to check that space is available. Onsite registrants will be asked to pay in full at the door.

REGISTRATION FEE AND DISCOUNTS: The full registration fee is \$545. We offer a 10% discount on registrations received on or before **March 20, 2002**. We offer a separate 10% discount to members of the ABA Litigation Section's Insurance Coverage Litigation Committee / Illinois State Bar Association. No discount is available to onsite registrants. The fee includes conference attendance, program materials, conference meals and breaks, and the Day 1 cocktail party.

SUBSTITUTIONS AND CANCELLATION: Delegates unable to attend may send a substitute. Written notice of cancellation must be received by **April 8, 2002** for full refund less \$20 administration charge. Thereafter, delegates will receive program materials instead of a refund.

LODGING: We have appointed as conference hotel the Millennium Knickerbocker Hotel, 163 East Walton Place, Chicago, IL 60611, just off the "Magnificent Mile". A limited number of rooms have been blocked for delegates at \$149 single and \$169 double (ex. tax; deluxe room). Please make your reservation as soon as possible. The room block will be held until exhausted or until **April 1, 2002**. Thereafter, the hotel will offer you the best available rate at the time you call. To receive the block rate, please reserve direct with the hotel — using the reference "Lloyd's and Equitas 2002" — by calling 1(800) 621-8140 or 1(312) 751-8100 and asking for the Reservations Department, or by faxing the hotel at 1(312) 751-9663. Please raise any special lodging needs with the hotel's Reservations Manager. **Information from the hotel:** The hotel advises that check-in is 3pm or later, and check-out is by 12pm. Each reservation for which the required deposit or guarantee has been received is guaranteed for arrival until 6:00am on the day following the scheduled arrival date. Deposits are refundable to the guest if the hotel receives notice of cancellation no later than 48 hours before the scheduled arrival date.

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CLE ACCREDITATION: CLE accreditation has been requested for this program from every US state with mandatory continuing legal education requirements for its lawyers. Each state has its own rules and regulations, including its own definition of "CLE". A registrant must pay registration fees as a precondition to receiving CLE credit. Attorneys seeking MCLE credit in Pennsylvania are required to pay state accreditation fees direct to that state. To receive CLE credit, each eligible delegate must sign the sign-in sheets and obtain a Uniform Certificate of Attendance, which will be provided at the conference's conclusion.

PROGRAM MATERIALS: If you are not a delegate, the conference's program materials (subject to availability) cost \$150 per set and are available after May 15, 2002 by emailing a request, specifying the number of sets required, to communicate@insurance-2002.net. Please allow 14 days for delivery.

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