



2022 CLM Focus: June Conference
Nashville, TN
June 15-16, 2022

Investigating Sexual Misconduct Claims- The Do's, Don't & Challenges of Defending claims that occurred decades ago

I. Investigating Sexual Abuse Claims (Gary Leonard)

Evaluate the facts as a whole to determine the circumstances of the incident.

When faced with litigation involving sexual abuse, one must consider and evaluate the facts as a whole to determine the circumstances of the incident.

The Importance of Consulting Coverage Counsel

When investigating these claims, it is important to first determine if coverage exists. As many of these claims happen many years ago, sometimes there is difficulty in determining the correct coverage.

Coverage counsel is also beneficial in determining if a viable reservation of rights exists.

Avoiding Negative Publicity and the Danger in Damages

The fear of publicity and the resulting damage creates an urgency in resolution of these claims in the face of a PR nightmare. The victims certainly elicit great empathy, which also impact's the value of the exposure. The cases are nearly impossible to defend. In the face of these issues, it is important to timely determine a plan of action for resolution and correction.

II. Underwriting and claims considerations (Rich Henderson)

Historical Claims

We will review the challenges presented on these types of claims. Some obstacles include locating old policies as many of these claims happened many years ago, sometimes there is difficulty in determining the correct coverage and locating the policies.

With many of these claims, there is an impact of social inflation. For example, over the past 10 years, a handful of claims have generated settlements of approximately 2 billion dollars.

III. Defending Claims of Sexual Abuse that Occurred Decade Ago (Joe Goldberg)

The rise or increase in sexual abuse claims is evident, many of which are prompted by the change in law allowing suits that were previously time barred to be filed so the cases involve abuse which occurred decades earlier, sometimes 30 and 40 years ago. Many states are now opening their doors either by opening a window of opportunity to bring previously barred claims or totally changing their laws on child sexual abuse or any sexual abuse.