

# The Right & Duty to Defend

MARCH 5, 2021

## A CLE Workshop on the Basics of Analyzing Liability Insurance, Challenging Disclaimers and Evaluating Claims for Independent “Cumis” Counsel

This **CLE Skills Workshop** will introduce non-coverage lawyers to the basics of analyzing liability insurance with a particular focus on the critically important duty to defend. Jeff Bolender, Esq. — a former insurance industry “insider” — will describe an analytical approach for reading a liability insurance policy and evaluating coverage.

The Curriculum consists of 5 Mini Lessons. Using hypos of famous TV Couples, Mr. Bolender will explore the broad scope of the **Duty to Defend**, the **Trigger of Coverage** and the impact of exclusionary clauses on the insurer’s **Defense Obligation**. Attendees will also learn about statutory and case law entitling policyholders to their own independent “**Cumis**” **Counsel** when coverage disputes arise. Mr. Bolender will describe an analytical approach to identify **Conflict-of-Interest Scenarios** and provide insights for negotiating hourly rates with insurers. The ultimate teaching objectives are an understanding of the broad scope of an insurer’s defense obligation, its critical importance and relationship to the duty to indemnify, and analytical approaches for evaluating exclusions and claims for independent counsel when conflicts of interest arise.

### SPEAKERS

- **Jeffrey S. Bolender, Esq.**  
Founder and Principal at Bolender Law Firm, PC, Insurance Litigator, Past President, Honorable Benjamin Aranda III, American Inn of Court, Former Insurance Industry “Insider”, Licensed in California, Nevada, Hawaii, and District of Columbia
- **Kunal Naik, Esq.**  
Insurance Litigation Associate, Bolender Law Firm, PC

### AGENDA

12:30 – 12:35 pm	Check In
12:35 – 12:40 pm	Introduction
12:40 – 12:55 pm	Policy Analysis
12:55 – 01:10 pm	Duty to Defend
01:10 – 01:25 pm	Exclusions
01:25 – 01:30 pm	Questions & Conclusion

### HIGHLIGHTS & OBJECTIVES

- Basic framework of a liability policy, analytical checklist for evaluating coverage, and rules of interpretation
- Trigger of coverage, scope and duration of defense obligation, distinction between duty to defend and duty to indemnify, “mixed” actions, and the critical importance of the defense benefit
- Impact of extrinsic evidence on the duty to defend, the proper analytical approach to exclusionary policy language, and challenging coverage disclaimers
- Tripartite relationship, conflicts of interest, entitlement to independent “Cumis” counsel, Cal. Civil Code § 2860, and strategies for negotiating with liability insurance carriers
- Remedies for breach of defense obligation, dispute resolution options, fee arbitration, in camera review, declaratory relief, and choice of law

### OTHER INFO.

- 1.0 Hours of General CLE Credit
- Provider 1082

**BOLENDER LAW FIRM**<sub>PC</sub>

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### TO REGISTER

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