

CONTENTS

PREFACE.....	47
INTRODUCTION: COMMON ISSUES WITHCOMMON RULES	49
ALABAMA	AL-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Extent of the Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	4
A. Law Governing the Insurance Policy	4
B. Direct Action Statutes	4
C. Statutes of Limitations	5
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	6
A. What Is An Ambiguity?	7
B. General Contract Rules For Resolving Ambiguities	7
C. Rule That Ambiguities Are Resolved Against Insurer.....	8
D. Limits of “Constructions Against Insurer” Rule	8
IV. Extent of Risks and Coverage.....	9
A. Insurable Risks	9
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages	10
C. Assignment and Transfer of Policies of Insurance.....	10
1. Transfer of Insured Property	
2. Assignability of Policy.....	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	11
A. Duty of Insurer to Defend	11
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	13
A. Insurer’s Duty to the Insured.....	13
1. Statutory Source/Unfair Claims Settlement Practices Act (Ala. Stat. § 27)	

Fundamentals of Insurance Coverage: In All 50 States

2. Implied Covenant of Good Faith and Fair Dealing	
3. Conflict of Interest	
B. Insurer’s Duty to Third Party Claimants	16
1. Implied Covenant of Good Faith and Fair Dealing	
C. Insurer’s Duty to its Excess Insurer	16
VII. Policy Defenses.....	17
A. Cooperation.....	17
1. Failure to Cooperate May Bar Coverage.....	
B. Notice.....	17
C. Misrepresentation.....	18
1. False Statements.....	
2. Materiality.....	
3. Intent	
D. Breach of Warranty	18
E. Failure to Pay Premiums	18
VIII. Environmental Issues and Insurance Law	19
A. Occurrence/Accidental Event.....	19
1. Trigger of Coverage for Tort Claims	
2. Expected/Intended.....	
B. Damages Because of Bodily Injury.....	20
C. Damages Because of Property Damages.....	21
D. Property Damage and Economic Loss	21
E. Policy Exclusions.....	21
1. Insured’s Owned Property Exclusion Clause.....	
2. Pollution Exclusion Clause	
ALASKA	AK-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
D. Limitations of “Constructions Against Insurer” Rule	6
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks.....	6

1. Expectations of the Parties	7
B. Insurability of Punitive Damages	7
C. Assignment and Transfer of Policies of Insurance	7
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	8
A. Duty of Insurer to Defend	8
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
5. Extinguishing the Duty to Defend.....	
B. Duty of Insurer to Give Notice of Intent to Deny	10
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	10
A. Insurer’s Duty to the Insured.....	10
1. Statutory Source/Unfair Claims Settlement Practices Act (Alaska Ins. Code § 21.36.125).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	12
VII. Policy Defenses.....	13
A. Cooperation/Voluntary Payments	13
B. Notice	13
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	14
1. False Statements.....	
2. Intent	
3. Materiality	
D. Breach of Warranty	15
E. Failure to Pay Premiums	15
VIII. Environmental Issues and Insurance Law	15
A. Occurrence/Accidental Event.....	15
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
B. Allocation.....	16
C. Damages and Equitable Relief	16
D. Property Damage and Economic Loss	16
E. Policy Exclusions	17
1. Pollution Exclusion Clause	
2. Insured’s Owned Property Exclusion Clause	
ARIZONA	AZ-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2

Fundamentals of Insurance Coverage: In All 50 States

B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy.....	3
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	5
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer	6
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages	7
C. Assignment and Transfer of Policies of Insurance.....	8
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	8
A. Duty of Insurer to Defend	8
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
3. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Practices and Fraud Act (A.R.S. § 20-46)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Non-Insureds.....	14
VII. Policy Defenses.....	15
A. Cooperation.....	15
B. Notice.....	15
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Voluntary Payments	16
D. Misrepresentation.....	16
1. False Statements.....	
2. Intent	
3. Materiality.....	
E. Breach of Warranty	17

F. Failure to Pay Premiums	17
VIII. Environmental Issues and Insurance Law	17
A. Occurrence/Accidental Event.....	17
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
B. Allocation.....	20
C. Property Damage and Economic Loss	20
D. Fear of Future Illness is Not Bodily Injury	21
E. Policy Exclusions.....	21
1. Pollution Exclusion Clause	
ARKANSAS.....	AR-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	5
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer.....	6
D. Limitations of “Construction against Insurer” Rule.....	7
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks.....	7
1. Expectations of the Parties	
2. Liability Created By Statute.....	
3. Indemnity Agreements Between Insureds.....	
B. Insurability of Punitive Damages.....	9
C. Assignment and Transfer of Policies of Insurance.....	9
1. Transfer of Insured Property	
2. Assignability of Policy.....	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	10
A. Duty of Insurer to Defend	10
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	

Fundamentals of Insurance Coverage: In All 50 States

4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	12
A. Insurer’s Duty to the Insured.....	12
1. Statutory Source/Unfair Claims Settlement Practices Act (A.C.A. Tit. 23, Ch. 66)	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	14
A. Cooperation	14
B. Notice	14
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	15
1. False Statements.....	
2. Materiality	
3. Intent	
D. Failure to Pay Premiums	16
VIII. Environmental Issues and Insurance Law	16
A. Occurrence/Accidental Event.....	16
1. Expected/Intended.....	
2. Number of Occurrences	
B. Damages Because of Property Damage	18
C. Policy Exclusions	20
1. Pollution Exclusion Clause	
CALIFORNIA	CA-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	3
1. Extent of the Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	4
A. Law Governing the Insurance Policy	4
B. Direct Action Statutes	6
C. Statutes of Limitations	6
1. Breach of Contract	
2. Tort – Bad Faith	
3. Tort – Cal. Ins. Code § 790.03	
III. Construction and Interpretation.....	8
A. What Is An Ambiguity?	9
B. General Contract Rules For Resolving Ambiguities	9
C. Rule That Ambiguities Are Resolved Against Insurer.....	10
D. Limitations of “Constructions Against Insurer” Rule	11
IV. Extent of Risks and Coverage.....	11
A. Insurable Risks.....	11

1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages	13
C. Assignment and Transfer of Policies of Insurance	13
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	15
A. Duty of Insurer to Defend	15
1. Trigger of Duty	
2. Scope of the Duty	
3. Duty of Excess Insurer to Defend	
4. Consequences of Failure to Defend.....	
5. Control of Defense	
6. Termination of the Defense.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	20
A. Insurer’s Duty to the Insured.....	20
1. Statutory Source/Unfair Claims Settlement Practices Act (Cal. Ins. Code § 790.03)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	23
1. Statutory Action	
C. Insurer’s Duty to Its Excess Insurer	24
1. Equitable Subrogation (Contract Duty).....	
2. Duty Implied in Law	
VII. Insured’s Duty of Good Faith and Fair Dealing	25
VIII. Policy Defenses.....	25
A. Voluntary Payments	25
B. Cooperation	27
1. Failure to Cooperate May Bar Coverage.....	
2. Limitations on Cooperation Defense.....	
C. Notice	28
1. Failure to Provide Notice May Bar Coverage	
2. Substantial Prejudice	
3. Waiver.....	
D. Misrepresentation.....	29
1. False Statements.....	
2. Materiality.....	
3. Waiver.....	
E. Breach of Warranty	31
F. Failure to Pay Premiums	31
IX. Environmental Issues and Insurance Law	32

Fundamentals of Insurance Coverage: In All 50 States

A. Duty to Defend PRP Notice Letter.....	32
B. Occurrence/Accidental Event.....	32
1. Bodily Injury and Trigger of Coverage.....	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
4. Loss-in-Progress Rule	
5. Number of Occurrences	
C. Allocation.....	37
1. Horizontal vs. Vertical Exhaustion	
2. Allocation Among Insurers	
3. Allocation Between Insurers and Policyholders.....	
4. Defense costs vs. Indemnity Costs	
D. Damages Because of Property Damage	41
E. Damages Because of Bodily Injury.....	42
F. Personal Injury Liability Coverage	43
G. Policy Exclusions	44
1. Insured’s Owned Property Exclusion Clause	
2. Pollution Exclusion Clause	
 COLORADO	 CO-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Extent of the Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
D. Limitations of “Constructions Against Insurer” Rule	5
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages.....	6
C. Assignment and Transfer of Policies of Insurance.....	7
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	

4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9
1. Statutory Source/Unfair Competition-Deceptive Practices (C.R.S. § 10-3-1104 (1988))	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	11
A. Cooperation.....	11
B. Notice.....	11
C. Misrepresentation.....	12
1. False Statements.....	
2. Materiality.....	
3. Intent	
D. Breach of Warranty	12
E. Failure to Pay Premiums	13
VIII. Environmental Issues and Insurance Law	13
A. Duty to Defend in Absence of Lawsuit.....	13
B. Occurrence/Accidental Event.....	13
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
C. Damages and Equitable Relief	15
D. Allocation.....	15
E. Personal Injury Liability Coverage	16
F. Policy Exclusions.....	16
1. Insured’s Owned Property Exclusion Clause	
2. Pollution Exclusion Clause	
CONNECTICUT	CT-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Extent of the Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	

III. Construction and Interpretation	4
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer	6
D. Limitations of “Constructions Against Insurer” Rule	6
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks	7
1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages	8
C. Assignment and Transfer of Policies of Insurance.....	8
1. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	8
A. Duty of Insurer to Defend	8
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	10
A. Insurer’s Duty to the Insured.....	10
1. Statutory Source/Unfair Claims Settlement Practices Act (C.G.S.A. § 38a-815)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Settlement Offers	
VII. Policy Defenses.....	13
A. Cooperation	13
B. Notice	13
C. Misrepresentation.....	14
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	14
E. Failure to Pay Premiums	14
VIII. Environmental Issues and Insurance Law	15
A. Duty to Defend PRP Notice Letter.....	15
B. Occurrence/Accidental Event.....	15
C. Allocation.....	16
D. “Damages” Because of “Property Damage”	16
E. Personal Injury Liability Coverage	17
F. Policy Exclusions.....	17
1. Pollution Exclusion Clause	
2. Lead Exclusion Clause	
3. Insured’s Owned Property Exclusion Clause	
DELAWARE	DE-1

I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Extent of the Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
D. Limitations of “Constructions Against Insurer” Rule	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks	5
1. Expectations of the Parties	
B. Insurability of Punitive Damages.....	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Consent of the Insurer	
2. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	6
A. Duty of Insurer to Defend	6
1. Trigger of the Duty.....	
2. Control of the Defense	
3. Termination of the Duty.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Practices in the Insurance Business (18 Del. C. § 2304).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to the Excess Insurer	10
VII. Policy Defenses.....	10
A. Cooperation	10
1. Failure to Cooperate May Bar Coverage.....	
B. Notice	11
C. Misrepresentation.....	11
1. False Statements.....	
2. Materiality.....	
D. Breach of Warranty	11
VIII. Environmental Issues and Insurance Law	11
A. Duty to Defend in Absence of Suit	11

Fundamentals of Insurance Coverage: In All 50 States

B. Occurrence/Accidental Event.....	12
1. Expected/Intended.....	
2. Trigger.....	
C. Damages and Equitable Relief.....	13
D. Property Damage and Economic Loss.....	13
E. Policy Exclusions.....	
1. Pollution Exclusion Clause.....	
2. Insured’s Owned Property Exclusion Clause.....	
3. Products-Completed Operations Hazard Exclusion Clause.....	
DISTRICT OF COLUMBIA.....	DC-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Extent of the Burden of Proof.....	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations.....	3
A. Law Governing the Insurance Policy.....	3
B. Direct Action Statutes.....	3
C. Statutes of Limitations.....	4
1. Breach of Contract.....	
2. Tort – Bad Faith.....	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?.....	4
B. General Contract Rules For Resolving Ambiguities.....	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
D. Limitations of “Constructions against Insurer” Rule.....	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks.....	5
1. Expectations of the Parties.....	
B. Insurability of Punitive Damages.....	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Transfer of Insured Property.....	
2. Assignability of Policy.....	
3. Consent of the Insurer.....	
4. Reorganizations and Acquisitions.....	
V. Rights and Obligations of the Parties.....	7
A. Duty of Insurer to Defend.....	7
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend.....	
3. Consequences of Failure to Defend.....	
4. Control of the Defense.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9

1. Settlement Offers	
VII. Policy Defenses.....	10
A. Cooperation.....	10
1. Failure to Cooperate May Bar Coverage.....	
B. Notice.....	10
C. Misrepresentation.....	10
1. False Statements.....	
2. Materiality.....	
3. Intent	
D. Breach of Warranty	11
E. Failure to Pay Premiums	11
VIII. Environmental Issues and Insurance Law	11
A. Duty to Defend PRP Notice Letter.....	11
B. Occurrence/Accidental Event.....	12
1. Bodily Injury and Trigger of Coverage	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Damages and Equitable Relief	13
D. Policy Exclusions	13
1. Pollution Exclusion Clause	
FLORIDA	FL-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	5
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation.....	6
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	7
C. Rule That Ambiguities Are Resolved Against Insurer.....	7
D. Limitations of “Constructions Against Insurer” Rule	8
IV. Extent of Risks and Coverage.....	8
A. Insurable Risks	8
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages.....	9
C. Assignment and Transfer of Policies of Insurance.....	10
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	

4. Reorganizations and Acquisitions	11
V. Rights and Obligations of the Parties	11
A. Duty of Insurer to Defend	11
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	14
A. Insurer’s Duty to the Insured.....	14
1. Statutory Source/Unfair Claims Settlement Practices Act (F.S.A. §§ 626.9541(a) and 624.155).....	
B. Insurer’s Duty to Third Party Claimants	17
C. Primary Insurer’s Duty to Excess Insurers.....	17
VII. Policy Defenses.....	18
A. Cooperation.....	18
B. Notice	18
C. Misrepresentation.....	19
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	19
E. Failure to Pay Premiums	19
VIII. Environmental Issues and Insurance Law	19
A. Duty to Defend in Absence of Suit	19
B. Occurrence/Accidental Event.....	20
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Allocation.....	22
D. Damages and Equitable Relief	22
E. Property Damage and Economic Loss	23
F. Policy Exclusions	24
1. Insured’s Owned Premises Exclusion Clause	
2. Pollution Exclusion Clause	
GEORGIA	GA-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance	2
B. Missing Insurance Policies.....	2
1. Extent of Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	5

1. Breach of Contract	7
2. Tort – Bad Faith	8
III. Construction and Interpretation	7
A. What Is An Ambiguity?	7
B. General Contract Rules For Resolving Ambiguities	7
C. Rule That Ambiguities Are Resolved Against Insurer	8
IV. Extent of Risks and Coverage.....	8
A. Insurable Risks	8
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	9
C. Assignment and Transfer of Policies of Insurance.....	10
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	10
A. Duty of Insurer to Defend	10
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
B. Duty of Insurer to Investigate.....	12
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	13
A. Insurer’s Duty to the Insured.....	13
1. Statutory Source/Unfair Trade Practices Act (O.C.G.A. § 33-6-3, <i>et seq.</i> and § 33-6-34).....	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	15
A. Cooperation	15
B. Notice	16
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
3. Waiver	
C. Misrepresentation.....	18
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	19
E. Failure to Pay Premiums	19
VIII. Environmental Issues and Insurance Law	19
A. Occurrence/Accidental Event.....	19
1. Trigger of Coverage for Tort Claims	

Fundamentals of Insurance Coverage: In All 50 States

2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
B. Damages and Equitable Relief	22
C. Property Damage and Economic Loss	22
D. Personal Injury Liability Coverage	23
E. Policy Exclusions.....	23
1. Insured’s Owned Property Exclusion Clause	
2. Pollution Exclusion Clause	
HAWAII	HI-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved Against Insurer	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks	5
1. Expectations of the Parties	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	6
A. Duty of Insurer to Defend	6
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9
1. Statutory Source/Unfair Claims Settlement Practices Act (Haw. Rev. Stat. § 431:13-103).....	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	12
A. Cooperation.....	12
B. Notice.....	12

C. Misrepresentation.....	13
1. False Statements.....	
2. Intent	
3. Materiality.....	
D. Breach of Warranty	14
E. Failure to Pay Premiums	14
VIII. Environmental Issues and Insurance Law	14
A. Occurrence/Accidental Event.....	14
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
B. Damages Because of Bodily Injury.....	15
C. Personal Injury Liability Coverage	15
D. Policy Exclusions.....	16
1. Pollution Exclusion Clause	
IDAHO	ID-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Extent of the Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
D. Limitations of “Constructions Against Insurer” Rule	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks.....	5
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages.....	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Transfer of Insured Property	
2. Assignability of Policy.....	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	

Fundamentals of Insurance Coverage: In All 50 States

2. Consequences of Failure to Defend.....	8
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Claims Settlement Practices Act (Idaho Code §41-1329)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	10
VII. Policy Defenses.....	10
A. Cooperation	10
B. Notice	11
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	11
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	12
E. Failure to Pay Premiums	12
VIII. Environmental Issues and Insurance Law	12
A. Duty to Defend PRP Notice Letter.....	12
B. Occurrence/Accidental Event.....	13
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Damages and Equitable Relief	15
D. Property Damage and Economic Loss	16
E. Policy Exclusions.....	16
1. Pollution Exclusion Clause	
2. Insured’s Owned Property Exclusion Clause	
ILLINOIS.....	IL-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	3
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation.....	5
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer	7

D. Limitations of “Constructions Against Insurer” Rule	8
IV. Extent of Risks and Coverage.....	9
A. Insurable Risks	9
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	10
C. Assignment and Transfer of Policies of Insurance	11
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	12
A. Duty of Insurer to Defend	12
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
5. Duty of Primary Insurer to Excess Insurer	
B. Duty of Insurer to Indemnify	18
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	18
A. Insurer’s Duty to the Insured.....	18
1. Statutory Source/Improper Claims Practices Act (215 I.L.C.S. §§ 5/154.5 and 154.6).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	21
VII. Policy Defenses.....	21
A. Cooperation.....	21
B. Notice	22
C. Misrepresentation.....	23
1. False Statements.....	
2. Materiality	
3. Intent	
D. Failure to Pay Premiums	24
VIII. Environmental Issues and Insurance Law	25
A. Duty to Defend PRP Notice Letter.....	25
B. Occurrence/Accidental Event.....	26
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
4. Known Risk Is Not Insurable Occurrence (Fortuity Requirement).....	
C. Damages and Equitable Relief	30
D. Property Damage and Economic Loss	31

Fundamentals of Insurance Coverage: In All 50 States

E. Allocation.....	31
F. Personal Injury Liability Coverage	33
G. Policy Exclusions	33
1. Pollution Exclusion Clause	
2. Insured’s Owned Property Exclusion Clause	
3. Lead Paint Exclusion Clause.....	
INDIANA	IN-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation.....	5
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer.....	6
D. Limitations of “Constructions Against Insurer” Rule	6
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages.....	7
C. Assignment and Transfer of Policies of Insurance.....	8
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	8
A. Duty of Insurer to Defend	8
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Claims Settlement Practices Act (I.C. § 27-4-1-4.5).....	

2. Implied Covenant of Good Faith and Fair Dealing	
3. Breach of the Duty of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	13
1. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	14
A. Cooperation	14
B. Notice	14
1. Sufficiency of Notice	
2. Breach of Notice Is Defense to Coverage	
3. Substantial Prejudice	
4. Waiver	
C. Misrepresentation.....	15
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	16
E. Failure to Pay Premiums	16
VIII. Environmental Issues and Insurance Law	16
A. Duty to Defend Administrative Proceedings.....	16
B. Occurrence/Accidental Event.....	17
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Damages and Equitable Relief	20
D. Damages Because of Property Damage	20
E. Personal Injury Liability Coverage	20
F. Policy Exclusions	21
1. Pollution Exclusion Clause	
2. Owned Property/Alienated Premises Exclusion Clause.....	
IOWA	IA-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Extent of the Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	5

Fundamentals of Insurance Coverage: In All 50 States

C. Rule That Ambiguities Are Resolved Against Insurer	5
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	7
C. Assignment and Transfer of Policies of Insurance	7
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	8
A. Duty of Insurer to Defend	8
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9
1. Statutory Source/Unfair Claims Settlement Practices Act (I.C.A. § 507B.4).....	
2. Implied Duty to Third Party Claimants	
B. Insurer’s Duty to Third Party Claimants	12
VII. Policy Defenses.....	12
A. Cooperation	12
B. Notice	13
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	14
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	15
E. Failure to Pay Premiums	15
VIII. Environmental Issues and Insurance Law	15
A. Duty to Defend in Absence of Suit	15
B. Occurrence/Accidental Event.....	16
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
C. Damages and Equitable Relief	17
D. Property Damage and Economic Loss	17
E. Policy Exclusions	18
1. Pollution Exclusion Clause	

KANSAS	KS-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
D. Limitations of “Constructions Against Insurer” Rule	6
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks	7
1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages.....	8
C. Assignment and Transfer of Policies of Insurance.....	8
1. Transfer of Insured Property	
2. Assignability of Policy.....	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	9
A. Duty of Insurer to Defend	9
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Claims Settlement Practices Act (K.S.A. § 40-2404).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	13
VII. Policy Defenses.....	14
A. Cooperation.....	14
B. Notice.....	14
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	14
1. False Statements.....	

2. Materiality	15
D. Breach of Warranty	15
E. Failure to Pay Premiums	15
VIII. Environmental Issues and Insurance Law	16
A. Occurrence/Accidental Event.....	16
1. Trigger of Coverage	
2. Expected/Intended.....	
B. Damage Because of Bodily Injury	18
C. Damages Because of Property Damage	19
D. Policy Exclusions	20
1. Pollution Exclusion Clause	
2. Insured’s Owned Property Exclusion Clause	
KENTUCKY	KY-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved Against Insurer	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks	5
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Transfer of Insured Property	
2. Assignability of Policy.....	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
3. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8

1. Statutory Source/Unfair Claims Settlement Practices Act (K.R.S. § 304.12-230)	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	11
A. Cooperation	11
B. Notice	11
C. Misrepresentation.....	11
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	12
E. Failure to Pay Premiums	12
VIII. Environmental Issues and Insurance Law	13
A. Duty to Defend PRP Notice Letter.....	13
B. Occurrence/Accidental Event.....	13
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
C. Damages and Equitable Relief	14
D. Policy Exclusions	15
1. Pollution Exclusion Clause	
2. Insured’s Owned Property Exclusion Clause	
3. Care, Custody or Control Exclusion Clause.....	
LOUISIANA.....	LA-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	3
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	5
C. Statutes of Limitations	5
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	6
A. What Is An Ambiguity?	7
B. General Contract Rules For Resolving Ambiguities	7
C. Rule That Ambiguities Are Resolved Against Insurer.....	8
D. Limitations of “Constructions Against Insurer” Rule	8
IV. Extent of Risks and Coverage.....	9
A. Insurable Risks	9
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages.....	10

C. Assignment and Transfer of Policies of Insurance.....	10
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	11
A. Duty of Insurer to Defend	11
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	14
A. Insurer’s Duty to the Insured.....	14
1. Statutory Source/Unfair Claims Settlement Practices Act (La. Rev. Stat. Ann. § 22:1220)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	16
VII. Policy Defenses.....	16
A. Cooperation.....	16
B. Notice	16
C. Misrepresentation.....	17
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	17
E. Failure to Pay Premiums	18
VIII. Environmental Issues and Insurance Law	18
A. Duty to Defend PRP Notice Letter.....	18
B. Occurrence/Accidental Event.....	19
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Damages and Equitable Relief	21
D. Personal Injury Liability Coverage	21
E. Policy Exclusions	22
1. Pollution Exclusion Clause	
2. Owned Property/Control of Property Exclusion Clause.....	
MAINE	ME-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Missing Insurance Policy	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3

B. Direct Action Statutes	3
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer	5
D. Limitations of “Constructions Against Insurer” Rule	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks	5
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance	6
1. Assignability of Policy	
2. Consent of the Insurer	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9
1. Statutory Source/Unfair Methods and Deceptive Acts (Me. Rev. Stat. Ann. Tit. 24-A, § 2152).....	
B. Insurer’s Duty to Third Party Claimants	10
1. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	10
A. Cooperation	10
B. Notice	11
1. Substantial Prejudice	
C. Misrepresentation.....	12
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	12
E. Failure to Pay Premiums	12
VIII. Environmental Issues and Insurance Law	13
A. Duty to Defend PRP Notice Letter.....	13
B. Occurrence/Accidental Event.....	13
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	

Fundamentals of Insurance Coverage: In All 50 States

C. Damages and Equitable Relief	14
D. Policy Exclusions	14
1. Pollution Exclusion Clause	
MARYLAND	MD-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policy	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	5
C. Statutes of Limitations	5
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	6
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	7
C. Rule That Ambiguities Are Resolved Against Insurer.....	7
D. Limitations of “Constructions Against Insurer” Rule	8
IV. Extent of Risks and Coverage.....	8
A. Insurable Risks	8
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages.....	9
C. Assignment and Transfer of Policies of Insurance.....	9
1. Transfer of Insured Property	
2. Assignability of Policy.....	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	10
A. Duty of Insurer to Defend	10
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	14
A. Insurer’s Duty to the Insured.....	14
1. Statutory Source/Unfair Claims Settlement Practices Act (Md. Ins. Code Ann. §§ 27-303 and 27-304)	
2. Implied Covenant of Good Faith and Fair Dealing	
3. Settlement Offers	
B. Insurer’s Duty to Third Party Claimants	17
1. Implied Covenant of Good Faith and Fair Dealing	

VII. Policy Defenses.....	17
A. Cooperation.....	17
B. Notice.....	18
C. Misrepresentation.....	19
1. False Statements.....	
2. Materiality.....	
D. Breach of Warranty.....	20
E. Failure to Pay Premiums.....	20
VIII. Environmental Issues and Insurance Law.....	20
A. Occurrence/Accidental Event.....	20
1. Trigger of Coverage for Tort Claims.....	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
4. Number of Occurrences.....	
B. Allocation.....	23
C. Damages and Equitable Relief.....	23
D. Property Damage and Economic Loss.....	24
E. Policy Exclusions.....	24
1. Pollution Exclusion Clause.....	
2. Owned Property/Alienated Premises Exclusion Clause.....	
3. Products-Completed Operations Hazard Exclusion Clause.....	
4. Mold Exclusion Clause.....	
MASSACHUSETTS.....	MA-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policy.....	
II. Procedural Considerations.....	3
A. Law Governing the Insurance Policy.....	3
B. Direct Action Statutes.....	4
C. Statutes of Limitations.....	4
1. Breach of Contract.....	
2. Tort – Bad Faith.....	
III. Construction and Interpretation.....	5
A. What Is An Ambiguity?.....	5
B. General Contract Rules For Resolving Ambiguities.....	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	6
D. Limitations of “Constructions Against Insurer” Rule.....	6
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks.....	7
1. Expectations of the Parties.....	
2. Liability Created or Enlarged During Policy Period.....	
B. Insurability of Punitive Damages.....	7

C. Transfer of Insured Property	8
1. Assignability of Policy	
2. Consent of the Insurer	
3. Rights of the Assignee	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	9
A. Duty of Insurer to Defend	9
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
3. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Claims Settlement Practices Act (M.G.L.A. Chapters 93A and 176D).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Its Excess Insurer	15
VII. Policy Defenses.....	15
A. Cooperation	15
B. Notice	16
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	16
1. False Statements Entitle Insurer to Rescind	
2. Materiality	
D. Breach of Warranty	17
E. Failure to Pay Premiums	17
F. Voluntary Payments	17
VIII. Environmental Issues and Insurance Law	18
A. Duty to Defend PRP Notice Letter.....	18
B. Occurrence/Accidental Event.....	18
1. Trigger of Coverage for Tort Claims	
2. Trigger of Coverage for Property Damage Claims	
3. Expected/Intended.....	
4. Known Loss	
5. Trigger of Coverage Under Claims-Made Policy	
C. Allocation.....	21
D. Damages and Equitable Relief	21
E. Property Damage and Economic Loss	21
F. Personal Injury Liability Coverage	22
G. Policy Exclusions	22
1. Insured’s Owned Property Exclusion Clause	
2. Pollution Exclusion Clause	
3. Products-Completed Operations Hazard Clause	
MICHIGAN	MI-1

I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	3
1. Extent of the Burden of Proof	
2. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	4
A. Law Governing the Insurance Policy	4
B. Direct Action Statutes	5
C. Statutes of Limitations	5
1. Breach of Contract	
2. Breach of Implied Covenant of Good Faith and Fair Dealing	
III. Construction and Interpretation	6
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer	7
D. Limitations of “Constructions Against Insurer” Rule	7
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks	7
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	8
C. Assignment and Transfer of Policies of Insurance.....	8
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	9
A. Duty of Insurer to Defend	9
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
5. Other Insurance Clauses.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Claims Settlement Practices Act (Mich. Comp. Laws § 500.2026)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	15
VII. Policy Defenses.....	15
A. Cooperation.....	15
B. Voluntary Payments	16
C. Notice	16
D. Misrepresentation.....	17

Fundamentals of Insurance Coverage: In All 50 States

1. False Statements.....	
2. Materiality.....	
E. Breach of Warranty.....	18
F. Failure to Pay Premiums.....	18
VIII. Environmental Issues and Insurance Law.....	18
A. Duty to Defend PRP Notice Letter.....	18
B. Occurrence/Accidental Event.....	19
1. Trigger of Coverage for Tort Claims.....	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
4. Known Risk Is Not Insurable Occurrence (Fortuity Requirement).....	
5. Trigger of Coverage Under Claims-Made Policy.....	
C. Allocation.....	22
1. Allocation of Defense Costs.....	
2. Allocation Between Defense and Indemnity.....	
3. Allocation of Indemnity Costs.....	
D. Damages and Equitable Relief.....	25
E. Property Damage and Economic Loss.....	26
F. Personal Injury Liability Coverage.....	26
G. Policy Exclusions.....	26
1. Insured’s Owned Property Exclusion Clause.....	
2. Pollution Exclusion Clause.....	
MINNESOTA.....	MN-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations.....	3
A. Law Governing the Insurance Policy.....	3
B. Direct Action Statutes.....	3
C. Statutes of Limitations.....	4
1. Breach of Contract.....	
2. Tort – Bad Faith.....	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?.....	4
B. General Contract Rules For Resolving Ambiguities.....	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
D. Limitations of “Constructions Against Insurer” Rule.....	6
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks.....	6
1. Expectations of the Parties.....	
B. Insurability of Punitive Damages.....	7
C. Assignment and Transfer of Policies of Insurance.....	7

1. Transfer of Insured Policy	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	8
A. Duty of Insurer to Defend	8
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Claims Settlement Practices Act (M.S.A. § 72A.20).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	13
VII. Policy Defenses.....	13
A. Cooperation	13
B. Notice	14
1. Failure to Provide Notice May Bar Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	14
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	15
E. Failure to Pay Premiums	15
VIII. Environmental Issues and Insurance Law	15
A. Duty to Defend PRP Notice Letter.....	15
B. Occurrence/Accidental Event.....	17
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Allocation.....	19
D. Damages and Equitable Relief	21
E. Property Damage and Economic Loss	23
F. Personal Injury Liability Coverage	24
G. Policy Exclusions	24
1. Insured’s Owned Property Exclusion Clause	
2. Pollution Exclusion Clause	
MISSISSIPPI	MS-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2

Fundamentals of Insurance Coverage: In All 50 States

1. Proof of Contents of Missing Policies.....	2
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer	5
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance.....	7
1. Assignability of Policy	
2. Consent of the Insurer	
3. Exceptions to Consent Requirement	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
3. Control of Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9
1. Statutory Source	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	11
A. Cooperation	11
B. Notice	11
C. Misrepresentation.....	12
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	12
E. Failure to Pay Premiums	12
VIII. Environmental Issues and Insurance Law	13
A. Occurrence/Accidental Event.....	13
1. Expected/Intended.....	
B. Personal Injury Liability Coverage	13
C. Policy Exclusions	13
1. Pollution Exclusion Clause	

MISSOURI	MO-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer	6
D. Limitations of “Constructions Against Insurer” Rule	6
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	7
C. Assignment and Transfer of Policies of Insurance.....	7
1. Assignability of Policy	
2. Consent of the Insurer	
3. Exceptions to Consent Requirement	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	8
A. Duty of Insurer to Defend	8
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Claims Settlement Practices Act (Mo. Rev. Stat. § 375.936)	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	18
A. Cooperation.....	18
B. Notice.....	18
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	19
1. False Statements.....	
2. Materiality.....	

Fundamentals of Insurance Coverage: In All 50 States

3. Intent	20
D. Breach of Warranty	20
E. Failure to Pay Premiums	20
VIII. Environmental Issues and Insurance Law	21
A. Duty to Defend PRP Notice Letter.....	21
B. Occurrence/Accidental Event.....	21
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
4. Loss in Progress	
C. Allocation.....	23
D. Damages and Equitable Relief	23
E. Damages Because of Bodily Injury.....	24
F. Property Damage and Economic Loss	24
G. Personal Injury Liability Coverage	24
H. Policy Exclusions	25
1. Insured’s Owned Property Exclusion Clause	
2. Pollution Exclusion Clause	
MONTANA	MT-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved against Insurer	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks	5
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Assignability of Policy	
2. Reorganizations and Acquisitions	
D. Right of Subrogation.....	7
V. Rights and Obligations of the Parties	7

A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9
1. Statutory Source/Unfair Claims Settlement Practices Act (Mont. Code Ann. § 33-18-201).....	
2. Implied Covenant of Good Faith and Fair Dealing	
3. Insurer’s Duty to Third Party Claimants	
4. Insurer’s Duty With Respect to Co-Insurance.....	
VII. Policy Defenses.....	12
A. Cooperation.....	12
1. Failure to Cooperate May Bar Coverage.....	
B. Notice.....	12
C. Misrepresentation.....	12
1. False Statements.....	
2. Materiality	
D. Breach of Warranty.....	13
E. Failure to Pay Premiums	13
VIII. Environmental Issues and Insurance Law	13
A. Occurrence/Accidental Event.....	13
1. Expected/Intended.....	
2. Known Risk Is Not Insurable Occurrence (Fortuity Requirement).....	
B. Property Damage and Economic Loss	14
C. Personal Injury Liability Coverage	15
D. Policy Exclusions	15
1. Pollution Exclusion Clause	
NEBRASKA.....	NE-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2
B. Direct Action Statutes	
C. Statutes of Limitations	3
1. Breach of Contract	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	5

IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance.....	7
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9
1. Statutory Source/Unfair Claims Settlement Practices Act (Neb. Rev. Stat. §§ 44-1539 and 44-1540).....	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	12
A. Cooperation.....	12
1. Failure to Cooperate May Bar Coverage.....	
B. Notice	12
C. Misrepresentation.....	13
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	13
E. Failure to Pay Premiums	13
VIII. Environmental Issues and Insurance Law	14
A. Occurrence/Accidental Event.....	14
1. Expected/Intended.....	
B. Damages and Equitable Relief	14
C. Property Damage and Economic Loss	14
D. Personal Injury Liability Coverage	15
E. Policy Exclusions.....	15
1. Pollution Exclusion Clause	
NEVADA.....	NV-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2

B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer	5
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance	7
1. Assignability of the Parties	
2. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Claims Settlement Practices Act (N.R.S. § 686A.310)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	11
VII. Policy Defenses.....	11
A. Cooperation.....	11
B. Notice.....	12
C. Misrepresentation.....	12
1. False Statements.....	
2. Materiality.....	
D. Breach of Warranty	13
E. Failure to Pay Premiums	13
VIII. Environmental Issues and Insurance Law	13
A. Occurrence/Accidental Event.....	13
1. Property Damage and Trigger of Coverage.....	
2. Trigger of Coverage for Tort Claims	
3. Expected/Intended.....	
4. Multiple vs. Single Occurrence	
B. Policy Exclusions	15
1. Pollution Exclusion Clause	
NEW HAMPSHIRE	NH-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2

Fundamentals of Insurance Coverage: In All 50 States

B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved Against Insurer	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks	5
1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Claims Settlement Practices Act (N.H. Rev. Stat. Ann. § 417:4).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	10
VII. Policy Defenses.....	10
A. Cooperation	10
B. Notice.....	10
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	11
1. False Statements Entitle Insurer to Rescind	
2. Materiality	
D. Breach of Warranty	11
E. Failure to Pay Premiums	12
VIII. Environmental Issues and Insurance Law	12
A. Occurrence/Accidental Event.....	12
1. Property Damage and Trigger of Coverage.....	
2. Allocation.....	

3. Expected/Intended.....	
4. Known Loss	
B. Damages and Equitable Relief	15
C. Policy Exclusions	16
1. Insured’s Owned Premises Exclusion Clause	
2. Pollution Exclusion Clause	
NEW JERSEY	NJ-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	4
A. Law Governing the Insurance Policy	4
1. Choice-of-Law Issues.....	
2. Forum Selection Clauses	
B. Direct Action Statutes	7
C. Statutes of Limitations	8
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	9
A. What Is An Ambiguity?	9
B. General Contract Rules For Resolving Ambiguities	10
C. Rule That Ambiguities Are Resolved Against Insurer.....	10
D. Limitations on “Constructions Against Insurer” Rule.....	11
IV. Extent of Risks and Coverage.....	11
A. Insurable Risks	11
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	12
C. Assignment and Transfer of Policies of Insurance.....	12
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	14
A. Duty of Insurer to Defend	14
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
3. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	17
A. Insurer’s Duty to the Insured.....	17
1. Statutory Source/Unfair Claims Settlement Practices Act	

Fundamentals of Insurance Coverage: In All 50 States

	(N.J.S.A. § 17B:30-13.1).....	
	2. Implied Covenant of Good Faith and Fair Dealing	
VII.	Policy Defenses.....	20
	A. Cooperation	20
	B. Notice	21
	1. Substantial Prejudice	
	C. Misrepresentation.....	22
	1. False Statements.....	
	2. Materiality	
	3. Intent	
	D. Breach of Warranty	23
	E. Failure to Pay Premiums	24
VIII.	Environmental Issues and Insurance Law	24
	A. Duty to Defend PRP Notice Letter.....	24
	B. Occurrence/Accidental Event.....	25
	1. Expected/Intended.....	
	2. Known Risk Is Not Insurable Occurrence (Fortuity Requirement).....	
	C. Allocation.....	29
	1. Horizontal vs. Vertical Exhaustion	
	2. Defense Costs vs. Indemnity Costs	
	D. Damages and Equitable Relief	31
	E. Property Damage and Economic Loss	32
	F. Personal Injury Liability Coverage	32
	G. Policy Exclusions	33
	1. Insured’s Owned Property Exclusion Clause	
	2. Pollution Exclusion Clause	
NEW MEXICO.....		NM-1
I.	The Contract of Insurance.....	2
	A. Proving the Existence and Terms of Insurance Policies.....	2
	B. Missing Insurance Policies.....	2
	1. Proof of Contents of Missing Policies.....	
II.	Procedural Considerations	3
	A. Law Governing the Insurance Policy	3
	B. Direct Action Statutes	3
	C. Statutes of Limitations	3
	1. Breach of Contract	
	2. Tort – Bad Faith	
III.	Construction and Interpretation	4
	A. What Is An Ambiguity?	4
	B. General Contract Rules For Resolving Ambiguities	5
	C. Rule That Ambiguities Are Resolved Against Insurer.....	5
IV.	Extent of Risks and Coverage.....	5

A. Insurable Risks	5
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Assignability of Policy	
2. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	9
A. Insurer’s Duty to the Insured.....	9
1. Statutory Source/Unfair Claims Settlement Practices Act (N.M.S.A. § 59A-16-20)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	12
VII. Policy Defenses.....	12
A. Cooperation	12
B. Notice	12
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	12
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	13
E. Failure to Pay Premiums	13
VIII. Environmental Issues and Insurance Law	14
A. Policy Exclusions	14
1. Pollution Exclusion Clause	
NEW YORK.....	NY-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	3
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	5
C. Statutes of Limitations	5
1. Breach of Contract	

Fundamentals of Insurance Coverage: In All 50 States

2. Tort – Bad Faith	6
III. Construction and Interpretation	6
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	7
C. Rule That Ambiguities Are Resolved Against Insurer	7
D. Limitations of “Constructions Against Insurer” Rule	7
IV. Extent of Risks and Coverage.....	8
A. Insurable Risks	8
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	10
C. Assignment and Transfer of Policies of Insurance.....	10
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	11
A. Duty of Insurer to Defend	11
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	15
A. Insurer’s Duty to the Insured.....	15
1. Statutory Source/Unfair Claims Settlement Practices Act (N.Y. Ins. Law § 2601)	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	17
A. Cooperation	17
B. Notice	18
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
3. Waiver	
C. Misrepresentation.....	24
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	24
E. Failure to Pay Premiums	25
VIII. Environmental Issues and Insurance Law	26
A. Duty to Defend PRP Notice Letter.....	26
B. Occurrence/Accidental Event.....	26
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	

4. Known Risk is Not Insurable Occurrence (Fortuity Requirement).....	33
C. Allocation.....	33
1. Allocation Among Insurers	
2. Allocation Between Insurers and Policyholders.....	
D. Damages and Equitable Relief	34
E. Property Damage and Economic Loss	34
F. Policy Exclusions	34
1. Insured’s Owned Premises Exclusion Clause	
2. Pollution Exclusion Clause	
NORTH CAROLINA	NC-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	4
1. Breach of Contract	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	6
D. Limitations of “Constructions Against Insurer” Rule	6
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages	7
C. Assignment and Transfer of Policies of Insurance.....	8
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	9
A. Duty of Insurer to Defend	9
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11

Fundamentals of Insurance Coverage: In All 50 States

A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Claims Settlement Practices Act (N.C.G.S.A. § 58-63-15).....	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	13
A. Cooperation.....	13
1. Failure to Cooperate May Bar Coverage.....	
B. Notice.....	13
C. Misrepresentation.....	14
1. False Statements Entitle Insurer to Rescind	
2. Materiality	
D. Breach of Warranty	14
E. Failure to Pay Premiums	14
VIII. Environmental Issues and Insurance Law	15
A. Duty to Defend PRP Notice Letter.....	15
B. Occurrence	15
1. Trigger.....	
2. Expected/Intended.....	
C. Damages and Equitable Relief	16
D. Damages Because of Bodily Injury.....	17
E. Property Damage and Economic Loss	17
F. Policy Exclusions	17
1. Pollution Exclusion Clause	
2. “Care, Custody or Control” Exclusion Clause	
NORTH DAKOTA.....	ND-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved Against Insurer.....	4
D. Limitations of “Constructions Against Insurer” Rule	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks	5
1. Expectations of the Parties	

2. Liability Created or Enlarged During Policy Period	6
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance	6
1. Assignability of Policy	
2. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	6
A. Duty of Insurer to Defend	6
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Claims Settlement Practices Act (N.D.C.C. § 26.1-04-03)	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	10
A. Cooperation	10
B. Notice	10
C. Misrepresentation.....	10
1. False Statements.....	
2. Materiality	
D. Failure to Pay Premiums	11
VIII. Environmental Issues and Insurance Law	11
A. Occurrence/Accidental Event.....	11
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
OHIO	OH-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
D. Removal to Federal Court	5
III. Construction and Interpretation	5
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer.....	6
D. Limitations of “Constructions Against Insurer” Rule	7
IV. Extent of Risks and Coverage.....	7

Fundamentals of Insurance Coverage: In All 50 States

A. Insurable Risks	7
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	8
C. Assignment and Transfer of Policies of Insurance.....	8
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	9
A. Duty of Insurer to Defend	9
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	12
1. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	12
A. Cooperation	12
B. Notice	12
C. Misrepresentation.....	13
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	14
E. Failure to Pay Premiums	14
F. Fortuitous Losses	14
G. Voluntary Payments	15
VIII. Environmental Issues and Insurance Law	15
A. Duty to Defend PRP Notice Letter.....	15
B. Occurrence/Accidental Event.....	16
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Allocation.....	18
D. Damages and Equitable Relief	19
E. Property Damage and Economic Loss	19
F. Damages Because of Bodily Injury.....	19
G. Personal Injury Liability Coverage	19
H. Policy Exclusions	19
1. Owned Property/Alienated Premises Exclusion Clause.....	

2. Pollution Exclusion Clause 2

OKLAHOMA OK-1

I. The Contract of Insurance..... 2

A. Proving the Existence and Terms of Insurance Policies..... 2

B. Missing Insurance Policies..... 2

 1. Proof of Contents of Missing Policies..... 2

II. Procedural Considerations 3

A. Law Governing the Insurance Policy 3

B. Direct Action Statutes 3

C. Statutes of Limitations 3

 1. Breach of Contract 3

 2. Tort – Bad Faith in Construction and Interpretation 3

III. Construction and Interpretation 4

A. What Is An Ambiguity? 4

B. General Contract Rules For Resolving Ambiguities 5

C. Rule That Ambiguities Are Resolved Against Insurer 5

IV. Extent of Risks and Coverage..... 6

A. Insurable Risks 6

 1. Expectations of the Parties 6

 2. Liability Created By Statute 6

B. Insurability of Punitive Damages 6

C. Assignment and Transfer of Policies of Insurance..... 7

 1. Transfer of Insured Property 7

 2. Assignability of Policy 7

 3. Consent of the Insurer 7

 4. Reorganizations and Acquisitions 7

V. Rights and Obligations of the Parties 8

A. Duty of Insurer to Defend 8

 1. Trigger of the Duty..... 8

 2. Duty of Excess Insurer to Defend 8

 3. Control of the Defense 8

VI. Insurer’s Duty of Good Faith and Fair Dealing..... 9

A. Insurer’s Duty to the Insured..... 9

 1. Statutory Source/Unfair Claims Settlement Practices Act
 (Okla. Stat. Ann. Tit. 36, § 1250.1, *et al.* (1999)) 9

 2. Implied Covenant of Good Faith and Fair Dealing 9

VII. Policy Defenses..... 11

A. Cooperation 11

B. Notice 11

C. Misrepresentation..... 11

 1. False Statements..... 11

 2. Materiality 11

 3. Intent 11

D. Breach of Warranty	12
E. Failure to Pay Premiums	12
VIII. Environmental Issues and Insurance Law	13
A. Occurrence/Accidental Event	13
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
B. Damages and Equitable Relief.....	14
C. Property Damage and Economic Loss	14
D. Policy Exclusions	14
1. Pollution Exclusion Clause	
OREGON.....	OR-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
3. Settlements – Attorney’s Fees	
III. Construction and Interpretation.....	6
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	7
C. Rule That Ambiguities Are Resolved Against Insurer.....	7
D. Limitations of “Constructions Against Insurer” Rule	8
E. Statutes Regarding Policy Construction and Interpretation.....	8
IV. Extent of Risks and Coverage.....	8
A. Insurable Risks	8
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages	10
C. Assignment and Transfer of Policies of Insurance.....	10
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	11
A. Duty of Insurer to Defend	11
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	

3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	13
A. Insurer’s Duty to the Insured.....	13
1. Statutory Source/Unfair Claims Settlement Practices Act (O.R.S. § 746.230)	
2. Senate Bill 297 Amending O.R.S. §§ 465.475 and 465.480 ..	
3. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	19
A. Cooperation.....	19
B. Notice.....	19
C. Misrepresentation.....	20
1. False Statements.....	
2. Materiality.....	
3. Intent	
D. Breach of Warranty	21
E. Failure to Pay Premiums	21
VIII. Environmental Issues and Insurance Law	22
A. Duty to Defend PRP Notice Letter.....	22
B. Occurrence/Accidental Event.....	23
1. Trigger.....	
2. Number of Occurrences	
3. Expected/Intended.....	
C. Damages and Equitable Relief.....	25
D. Property Damage and Economic Loss	26
E. Policy Exclusions.....	26
1. Insured’s Owned Premises Exclusion Clause	
2. Pollution Exclusion Clause	
PENNSYLVANIA.....	PA-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation.....	5
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer.....	6

D. Limitations of “Constructions Against Insurer” Rule	7
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks	7
1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages	8
C. Assignment and Transfer of Policies of Insurance.....	9
1. Consent of the Insurer	
2. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	10
A. Duty of Insurer to Defend	10
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	13
A. Insurer’s Duty to the Insured.....	13
1. Statutory Source/Unfair Claims Settlement Practices Act (40 P.S. § 1171.5).....	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	17
A. Cooperation.....	17
B. Notice	17
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	18
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	20
E. Failure to Pay Premiums	20
VIII. Environmental Issues and Insurance Law	20
A. Duty to Defend PRP Notice Letter.....	20
B. Occurrence/Accidental Event.....	21
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
4. Number of Occurrences	
5. Known Loss	
C. Allocation.....	25
D. Damages and Equitable Relief	25
E. Property Damage and Economic Loss	26
F. Policy Exclusions	27
1. Insured’s Owned Property Exclusion Clause	
2. Pollution Exclusion Clause	

RHODE ISLAND	RI-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	2
A. Law Governing the Insurance Policy	2
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved Against Insurer	4
IV. Extent of Risks and Coverage.....	4
A. Insurable Risks	4
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages	5
C. Assignment and Transfer of Policies of Insurance.....	6
1. Assignability of Policy	
2. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	8
A. Duty of Insurer to Defend	8
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Claims Settlement Practices Act (R.I.G.L. § 9-1-33)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	10
1. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	10
A. Cooperation	10
B. Notice	10
C. Misrepresentation.....	10
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	11
E. Failure to Pay Premiums	11
F. Known Loss	11

VIII. Environmental Issues and Insurance Law	12
A. Duty to Defend PRP Notice Letter.....	12
B. Occurrence/Accidental Event.....	12
1. Property Damage and Trigger of Coverage.....	
C. Damages and Equitable Relief	12
D. Damages Because of Bodily Injury.....	13
E. Policy Exclusions	13
1. Pollution Exclusion Clause	
SOUTH CAROLINA	SC-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	5
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer.....	6
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks	6
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages.....	7
C. Assignment and Transfer of Policies of Insurance.....	7
1. Assignability of Policy.....	
2. Consent of the Insurer	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	9
A. Duty of Insurer to Defend	9
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	10
A. Insurer’s Duty to the Insured.....	10
1. Statutory Source/Unfair Claims Settlement Practices Act (S.C. Code Ann. § 38-59-20)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third-Party Claimants.....	13

VII. Policy Defenses.....	13
A. Cooperation.....	13
1. Failure to Cooperate May Bar Coverage.....	
B. Notice.....	13
C. Misrepresentation.....	14
1. False Statements.....	
2. Materiality.....	
D. Breach of Warranty.....	14
E. Failure to Pay Premiums.....	14
VIII. Environmental Issues and Insurance Law.....	15
A. Duty to Defend PRP Notice Letter.....	15
B. Occurrence/Accidental Event.....	15
1. Trigger.....	
2. Expected/Intended.....	
3. Known Loss.....	
C. Allocation.....	18
D. Damages and Equitable Relief.....	19
E. Property Damage and Economic Loss.....	20
F. Personal Injury Liability Coverage.....	20
G. Policy Exclusions.....	
1. Pollution Exclusion Clause.....	
SOUTH DAKOTA.....	SD-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations.....	2
A. Law Governing the Insurance Policy.....	2
B. Direct Action Statutes.....	3
C. Statutes of Limitations.....	3
1. Breach of Contract.....	
2. Tort – Bad Faith.....	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?.....	4
B. General Contract Rules For Resolving Ambiguities.....	4
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks.....	5
1. Expectations of the Parties.....	
2. Liability Created or Enlarged During Policy Period.....	
B. Insurability of Punitive Damages.....	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Assignability of Policy.....	

Fundamentals of Insurance Coverage: In All 50 States

2. Exceptions to Consent Requirement	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Trade Practices Act (S.D.C.L. § 58-33-1)	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	9
A. Cooperation.....	9
B. Notice.....	9
1. Breach of Notice Is Defense to Coverage	
C. Misrepresentation.....	10
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	10
E. Failure to Pay Premiums	10
VIII. Environmental Issues and Insurance Law	11
A. Occurrence/Accidental Event.....	11
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
B. Damages and Equitable Relief	12
C. Personal Injury Liability Coverage	13
D. Policy Exclusions	13
1. Pollution Exclusion Clause	
TENNESSEE	TN-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	6
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer	7

D. Limitations of “Constructions Against Insurer” Rule	7
IV. Extent of Risks and Coverage.....	8
A. Insurable Risks	8
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	9
C. Assignment and Transfer of Policies of Insurance	9
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	10
A. Duty of Insurer to Defend	10
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
VI Insurer’s Duty of Good Faith and Fair Dealing.....	11
A. Insurer’s Duty to the Insured.....	11
1. Statutory Source/Unfair Claims Settlement Practices Act (T.C.A. § 56-8-104)	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	14
A. Cooperation	14
1. Failure to Cooperate May Bar Coverage.....	
B. Voluntary Payments	14
C. Notice	14
D. Misrepresentation.....	15
1. False Statements.....	
2. Materiality.....	
3. Intent	
E. Breach of Warranty	16
F. Failure to Pay Premiums	16
VIII. Environmental Issues and Insurance Law	16
A. Occurrence/Accidental Event.....	16
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
B. Damages and Equitable Relief	17
C. Property Damage and Economic Loss	18
D. Personal Injury Liability Coverage	19
E. Policy Exclusions	20
1. Pollution Exclusion Clause	
TEXAS	TX-1
I. The Contract of Insurance.....	2

Fundamentals of Insurance Coverage: In All 50 States

A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	3
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	5
A. What Is An Ambiguity?	6
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer	7
D. Limitations of “Constructions Against Insurer” Rule	8
IV. Extent of Risks and Coverage.....	8
A. Insurable Risks	8
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	8
C. Assignment and Transfer of Policies of Insurance.....	9
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	10
A. Duty of Insurer to Defend	10
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	13
A. Insurer’s Duty to the Insured.....	13
1. Statutory Source/Unfair Claims Settlement Practices Act (Tex. Ins. Code Art. 541.060)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	15
VII. Policy Defenses.....	15
A. Cooperation	15
1. Failure to Cooperate May Bar Coverage.....	
B. Notice	15
1. Failure to Provide Notice May Bar Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	16

1. False Statements.....	
2. Materiality.....	
3. Intent.....	
D. Breach of Warranty.....	17
E. Failure to Pay Premiums.....	17
VIII. Environmental Issues and Insurance Law.....	18
A. Duty to Defend PRP Notice Letter.....	18
B. Occurrence/Accidental Event.....	18
1. Trigger of Coverage for Tort Claims.....	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Allocation.....	21
1. Allocation Between Insurers and Policyholders.....	
2. Allocation Among Insurers.....	
D. Damages Because of Bodily Injury.....	22
E. Damages and Equitable Relief.....	23
F. Personal Injury Liability Coverage.....	23
G. Policy Exclusions.....	24
1. Insured’s Owned Property Exclusion Clause.....	
2. Pollution Exclusion Clause.....	
3. Care, Custody & Control Exclusion Clause.....	
UTAH.....	UT-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policy.....	
II. Procedural Considerations.....	2
A. Law Governing the Insurance Policy.....	2
B. Direct Action Statutes.....	3
C. Statutes of Limitations.....	3
1. Breach of Contract.....	
2. Tort – Bad Faith.....	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?.....	5
B. General Contract Rules For Resolving Ambiguities.....	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	5
D. Limitations of “Constructions Against Insurer” Rule.....	6
IV. Extent of Risks and Coverage.....	6
A. Insurable Risks.....	6
1. Expectations of the Parties.....	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages.....	6
C. Assignment and Transfer of Policies of Insurance.....	7

Fundamentals of Insurance Coverage: In All 50 States

1. Assignability of Policy	
2. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Claims Settlement Practices Act (U.C.A. § 31A-26-303)	
2. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	10
A. Cooperation.....	10
B. Notice.....	11
1. Breach of Notice Is Defense to Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	11
1. False Statements.....	
2. Intent	
3. Materiality	
D. Breach of Warranty	12
E. Failure to Pay Premiums	13
VIII. Environmental Issues and Insurance Law	13
A. Duty to Defend PRP Notice Letter.....	13
B. Occurrence/Accidental Event.....	13
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
C. Allocation.....	13
D. Damages and Equitable Relief	15
E. Policy Exclusions	15
1. Insured’s Owned Premises Exclusion Clause	
2. Pollution Exclusion Clause	
VERMONT.....	VT-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policy	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	3
1. Breach of Contract	

2. Tort – Bad Faith	4
III. Construction and Interpretation	4
A. What Is An Ambiguity?	4
B. General Contract Rules For Resolving Ambiguities	4
C. Rule That Ambiguities Are Resolved Against Insurer	5
D. Limitations of “Constructions Against Insurer” Rule	5
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks	5
1. Expectations of the Parties	
2. Liability Created or Enlarged During Policy Period	
B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance.....	6
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	7
A. Duty of Insurer to Defend	7
1. Trigger of the Duty.....	
2. Consequences of Failure to Defend.....	
3. Control of the Defense	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	8
A. Insurer’s Duty to the Insured.....	8
1. Statutory Source/Unfair Claims Settlement Practices Act (Vt. Stat. Ann. Tit. 8 § 4724)	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	9
VII. Policy Defenses	9
A. Cooperation.....	9
1. Failure to Cooperate May Bar Coverage.....	
B. Notice	10
C. Misrepresentation.....	10
1. False Statements.....	
2. Materiality	
D. Breach of Warranty	10
E. Failure to Pay Premiums	11
VIII. Environmental Issues and Insurance Law	11
A. Duty to Defend PRP Notice Letter.....	11
B. Occurrence/Accidental Event.....	12
1. Trigger of Coverage for Tort Claims	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Damages and Equitable Relief	13
D. Property Damage and Economic Loss	13
E. Policy Exclusions	13

Fundamentals of Insurance Coverage: In All 50 States

1. Pollution Exclusion Clause	
2. Insured’s Owned Property Exclusion Clause	
VIRGINIA	VA-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	5
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer.....	6
D. Limitations of “Constructions Against Insurer” Rule	7
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks	7
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	8
C. Assignment and Transfer of Policies of Insurance.....	9
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insured.....	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	10
A. Duty of Insurer to Defend	10
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	12
A. Insurer’s Duty to the Insured.....	12
1. Statutory Source/Unfair Claims Settlement Practices Act (Va. Code Ann. § 38.2-510).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	14
VII. Policy Defenses.....	15
A. Cooperation	15
1. Failure to Cooperate May Bar Coverage.....	
2. Voluntary Assumption of Liability	

B. Notice	16
1. Failure to Provide Notice May Bar Coverage	
2. Substantial Prejudice	
C. Misrepresentation	17
1. False Statements	
2. Materiality	
D. Breach of Warranty	17
E. Failure to Pay Premiums	18
VIII. Environmental Issues and Insurance Law	18
A. Duty to Defend PRP Notice Letter	18
B. Damage and Equitable Relief	18
C. Trigger of Coverage/Allocation	18
D. Property Damage and Economic Loss	20
E. Pollution Exclusion Clause	20
WASHINGTON	WA-1
I. The Contract of Insurance	2
A. Proving the Existence and Terms of Insurance Policies	2
B. Missing Insurance Policies	3
1. Proof of Contents of Missing Policies	
2. Environmental Claims Regulations	
II. Procedural Considerations	5
A. Law Governing the Insurance Policy	5
B. Direct Action Statutes	5
C. Statutes of Limitations	5
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation	6
A. What Is An Ambiguity?	7
B. General Contract Rules For Resolving Ambiguities	7
C. Rule That Ambiguities Are Resolved Against Insurer	8
IV. Extent of Risks and Coverage	9
A. Insurable Risks	9
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	10
C. Assignment and Transfer of Policies of Insurance	10
1. Transfer of Insured Property	
2. Assignability of Policy	
3. Consent of the Insurer	
4. Exceptions to Consent Requirement	
5. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	12
A. Duty of Insurer to Defend	12

Fundamentals of Insurance Coverage: In All 50 States

1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
5. Allocation of Defense Costs.....	
B. Duty of Insurer to Indemnify	16
1. Allocation of Indemnity Among Multiple Insurers.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	19
A. Insurer’s Duty to the Insured.....	19
1. Statutory Source/Unfair Claims Settlement Practices Act (Wash. Admin. Code § 284-30-330).....	
2. Statutory Source/Environmental Claims Regulations (Wash. Admin. Code § 284-30-930).....	
3. Implied Covenant of Good Faith and Fair Dealing	
VII. Policy Defenses.....	24
A. Cooperation.....	24
1. Failure to Cooperate May Bar Coverage.....	
2. Limitation on Cooperation Defense	
B. Notice	24
1. Failure to Provide Notice May Bar Coverage	
2. Substantial Prejudice	
C. Misrepresentation.....	25
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	26
E. Failure to Pay Premiums	26
VIII. Environmental Issues and Insurance Law	27
A. Duty to Defend PRP Notice Letter.....	27
B. Occurrence/Accidental Event.....	28
1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
3. “Known Risk” or “Known Loss” Doctrine	
C. Damages and Equitable Relief	31
D. Property Damage and Economic Loss	32
E. Personal Injury Liability Coverage	32
F. Policy Exclusions.....	33
1. Insured’s Owned Property Exclusion Clause	
2. Pollution Exclusion Clause	
WEST VIRGINIA	WV-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	

II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	4
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort.....	
III. Construction and Interpretation	5
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	5
C. Rule That Ambiguities Are Resolved Against Insurer	6
D. Limitations of “Constructions Against Insurer” Rule	7
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks	7
1. Expectations of the Parties	
2. Liability Created By Statute	
B. Insurability of Punitive Damages	8
C. Assignment and Transfer of Policies of Insurance.....	8
1. Assignability of Policy	
2. Consent of the Insurer	
3. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	9
A. Duty of Insurer to Defend	9
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	10
A. Insurer’s Duty to the Insured.....	10
1. Statutory Source/Unfair Claims Settlement Practices Act (W. Va. Code § 33-22-4(9)).....	
2. Implied Covenant of Good Faith to Defend.....	
B. Insurer’s Duty to Third Party Claimants	14
C. Primary Insurer’s Duty to Excess Insurers.....	15
VII. Policy Defenses.....	15
A. Cooperation.....	15
1. Failure to Cooperate May Bar Coverage.....	
B. Notice	16
C. Misrepresentation.....	16
1. False Statements.....	
2. Materiality	
3. Intent	
D. Breach of Warranty	17
E. Failure to Pay Premiums	17
VIII. Environmental Issues and Insurance Law	18
A. Occurrence/Accidental Event.....	18

Fundamentals of Insurance Coverage: In All 50 States

1. Property Damage and Trigger of Coverage.....	
2. Expected/Intended.....	
B. Allocation.....	18
C. Pollution Exclusion Clause	19
WISCONSIN	WI-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
1. Proof of Contents of Missing Policies.....	
II. Procedural Considerations	3
A. Law Governing the Insurance Policy	3
B. Direct Action Statutes	3
C. Statutes of Limitations	4
1. Breach of Contract	
2. Tort – Bad Faith	
III. Construction and Interpretation.....	5
A. What Is An Ambiguity?	5
B. General Contract Rules For Resolving Ambiguities	6
C. Rule That Ambiguities Are Resolved Against Insurer	6
D. Limitations of “Constructions Against Insurer” Rule	6
IV. Extent of Risks and Coverage.....	7
A. Insurable Risks	7
1. Expectations of the Parties	
2. Liability Created By Statute.....	
B. Insurability of Punitive Damages.....	8
C. Assignment and Transfer of Policies of Insurance.....	8
1. Transfer of Insured Property	
2. Assignability of Policy.....	
3. Consent of the Insurer	
4. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	9
A. Duty of Insurer to Defend	9
1. Trigger of the Duty.....	
2. Duty of Excess Insurer to Defend	
3. Consequences of Failure to Defend.....	
4. Control of the Defense	
B. Duty of Insurer to Settle.....	11
VI. Insurer’s Duty of Good Faith and Fair Dealing.....	12
A. Insurer’s Duty to the Insured.....	12
1. Statutory Source/Unfair Trade Practices Act (Wis. Stat. § 682.34(12)).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer’s Duty to Third Party Claimants	14

VII. Policy Defenses.....	14
A. Cooperation.....	14
1. Failure to Cooperate May Bar Coverage.....	
B. Notice.....	14
1. Failure to Provide Notice May Bar Coverage.....	
2. Substantial Prejudice.....	
C. Misrepresentation.....	15
1. False Statements.....	
2. Materiality.....	
D. Breach of Warranty.....	16
E. Failure to Pay Premiums.....	16
VIII. Environmental Issues and Insurance Law.....	16
A. Duty to Defend PRP Notice.....	16
B. Occurrence/Accidental Event.....	17
1. Trigger of Coverage for Tort Claims.....	
2. Property Damage and Trigger of Coverage.....	
3. Expected/Intended.....	
C. Damages and Equitable Relief.....	20
D. Property Damage and Economic Loss.....	22
E. Personal Injury Liability Coverage.....	22
F. Policy Exclusions.....	23
1. Insured’s Owned Property Exclusion Clause.....	
2. Pollution Exclusion Clause.....	
3. Contractual Liability Assumption Exclusion Clause.....	
WYOMING.....	WY-1
I. The Contract of Insurance.....	2
A. Proving the Existence and Terms of Insurance Policies.....	2
B. Missing Insurance Policies.....	2
Proof of Contents of Missing Policies.....	
II. Procedural Considerations.....	2
A. Law Governing the Insurance Policy.....	2
B. Direct Action Statutes.....	3
C. Statutes of Limitations.....	3
1. Breach of Contract.....	
2. Tort – Bad Faith.....	
III. Construction and Interpretation.....	4
A. What Is An Ambiguity?.....	4
B. General Contract Rules For Resolving Ambiguities.....	4
C. Rule That Ambiguities Are Resolved Against Insurer.....	4
IV. Extent of Risks and Coverage.....	5
A. Insurable Risks.....	5
1. Expectations of the Parties.....	
2. Liability Created or Enlarged During Policy Period.....	

Fundamentals of Insurance Coverage: In All 50 States

B. Insurability of Punitive Damages	6
C. Assignment and Transfer of Policies of Insurance	6
1. Assignability of Policy	
2. Reorganizations and Acquisitions	
V. Rights and Obligations of the Parties	6
A. Duty of Insurer to Defend	6
1. Trigger of the Duty	
2. Duty of Excess Insurer to Defend	
VI. Insurer's Duty of Good Faith and Fair Dealing.....	7
A. Insurer's Duty to the Insured.....	7
1. Statutory Source/Unfair Claims Settlement Practices Act (Wyo. Stat. § 26-13-124).....	
2. Implied Covenant of Good Faith and Fair Dealing	
B. Insurer's Duty to Third Parties	10
VII. Policy Defenses.....	10
A. Cooperation	10
B. Notice	11
C. Misrepresentation.....	11
1. Fraudulent Statements Entitle Insurer to Rescind	
2. Materiality	
D. Breach of Warranty	12
VIII. Environmental Issues and Insurance Law	12
A. Duty to Defend PRP Notice Letter.....	12
B. Occurrence/Accidental Event.....	12
1. Expected/Intended.....	
C. Damages and Equitable Relief	13
D. Property Damage and Economic Loss	13
E. Policy Exclusions	13
1. Pollution Exclusion Clause	

