



The Weekly Update of Texas Insurance News  
**TEXAS INSURANCE LAW NEWSBRIEF**



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## **BUSINESS PERSONAL PROPERTY DOES NOT INCLUDE TENANT-OWNED PROPERTY**

Last Thursday, the Eastland Court of Appeals upheld a summary judgment entered for Trinity Universal Insurance Company in *Imagination Realty Ltd. Co., L.L.C. v. Trinity Universal Ins. Co.*, 2009 WL 92225 (Tex.App.-Eastland) (unreported). Imagination Realty leased a building which it insured with Trinity. Imagination Realty evicted its tenant after obtaining an eviction order. When it locked the tenant out, some of the tenant's property remained in the building. The tenant broke into the building to retrieve the property. Imagination Realty filed a claim for the break-in. Trinity denied the claim and moved for summary judgment because Imagination Realty had no insurable interest in the property and the property was not its Business Personal Property under the policy. The court of appeals affirmed the summary judgment for the carrier applying standard principles of insurance policy interpretation.

## **INSURERS NOT ENTITLED TO ATTORNEYS FEES AND COSTS IN INTERPLEADER IN FEDERAL COURT**

Following the death of the insured under a life insurance policy, the insurers sought to interplead the funds to clarify their obligations to the beneficiaries following a change of beneficiary request in *Royal Indem. Co. v. Bates*, Slip Copy, 2009 WL 106558 (5th Cir. (Tex.)) In determining whether the insurers were entitled to attorneys fees and costs, the court first identified the factors to consider: (1) whether the case is simple; (2) whether the interpleader-plaintiff performed any unique services for the claimants or the court; (3) whether the interpleader-plaintiff acted in good faith and with diligence; (4) whether the services rendered benefitted the interpleader-plaintiff; and (5) whether the claimants improperly protracted the proceedings. The court determined that "[b]ecause Royal and First Colony's actions in 1995 are in part responsible for causing this litigation, and their nonresponsive answers in 2007 are in part responsible for protracting this litigation, rewarding their endeavors with costs and attorney's fees was an abuse of discretion." The court noted that Royal and First Colony received the letter purporting to change the beneficiary in 1995, and they failed to communicate with the insured about the validity of the purported designation.

## **TEXAS INSURANCE LAW SYMPOSIUM THIS WEEK IN HOUSTON**

This Thursday and Friday, January 22 and 23, the South Texas College of Law in Houston will host its 13<sup>th</sup> Annual Texas Insurance Law Symposium. Founding partner Christopher Martin is serving as Chair and Program Director of this great program for the 8<sup>th</sup> consecutive year. The program brings some of the

best insurance lawyers from the state to Houston to discuss the latest cutting-edge issue in Texas insurance law. In addition to covering numerous coverage and litigation aspects of Hurricanes Ike and Dolly, the conference will update the latest insurance decisions from the courts of Texas and also discuss practical solutions to questions raised by recent Texas Supreme Court insurance decisions. The program will have presentations on the latest legal and strategic issues in appraisal demands, applications of the Texas Prompt Payment Statute, agency exposure issues, additional insured/insured contract issues, the Texas Auto Policy and fraud/SIU claims. The topics are cutting edge yet practical and the speakers are some of the best insurance minds in the state. This CLE program has become one of the best in the state for offering practical and helpful insight into the latest trends in Texas insurance law, and this year's program promises to continue that reputation. For more information, call the CLE Department at South Texas College of Law at 713-646-1757 or look on-line at [www.stcl.edu/cle/cle.html](http://www.stcl.edu/cle/cle.html) We hope to see many of our readers in Houston later this week at the Texas Insurance Law Symposium.

If you wish to discuss legal principles mentioned herein, reply to this e-mail or contact any of our lawyers at Martin, Disiere, Jefferson & Wisdom, L.L.P.  
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