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Manhattan

PRACTICES

Management and Professional Liability Employment and Labor Global Insurance Services Commercial Litigation and Arbitration Municipal and Government Law

INDUSTRIES

Municipalities and Public Entities Lawyers and Law Firms

Insurance and Reinsurance

Peter J. Biging

PARTNER

EXPERIENCE

Peter J. Biging is an accomplished trial and appellate attorney with more than 30 years of experience as a litigator in the state and federal courts of New York. As co-chair of the firm's nationwide Management and Professional Liability practice group, Peter counsels and defends directors and officers against claims alleging fraud, negligence, and breach of fiduciary duties, and a variety of professionals against claims based on alleged errors and omissions (E&O) in the performance of their professional services. He also regularly litigates labor and employment practices liability claims, commercial disputes, and municipal liability claims premised on alleged civil rights and constitutional violations.

Peter's D&O work involves the defense of both for-profit and not-for-profit companies and their executives, and E&O work includes defending insurance agents and brokers, securities brokers, lawyers, and a wide range of other miscellaneous professionals. Peter is regularly called upon to handle complex, high-stakes commercial litigation and claims involving allegations of gross negligence, fraud and malfeasance, harassment and discrimination, as well as litigation of non-solicitation/non-compete disputes.

A recognized thought leader in the area of D&O and D&O risks and litigation, Peter is the current President of the Professional Liability Defense Federation (PLDF). He is also a member of the governing council of the American Bar Association's Tort Trial & Insurance Practice Section (ABA TIPS) and also functions as the ABA TIPS liaison to the ABA's Standing Committee on Lawyers Professional Liability. In addition, he is a past chair of the ABA TIPS Professional Liability Insurance Committee (PLIC), as well as the Media, Privacy and Advertising Law Committee, and is the Editor in Chief of the ABA TIPS Magazine *The Brief*. He is also a former chair of the PLDF Insurance Agent/Broker Claims and D&O Claims Defense Committees. And for the past two years he has hosted a podcast for the Professional Liability Underwriting Society (PLUS) discussing cutting- edge issues in management and professional liability called The Precipice. For his work in management and professional liability defense, Peter has been repeatedly honored as a New York Metro area Super Lawyer, is rated AV Preeminent by Martindale-Hubbell, and has been repeatedly selected as one of America's Top 100 Bet-the-Company Litigators.

EXPERIENCE HIGHLIGHTS

Banking and Financial

As lead trial counsel, successful defense of claims of negligence and breach of fiduciary
duty against a financial investment advisor accused of failing to take appropriate
actions to warn a customer and otherwise take steps to protect her against a social
engineering scam resulting in the loss of almost \$1.2 million. Claimant also alleged
emotional distress damages of \$5 million. After a six-day arbitration hearing, the panel
dismissed all claims against the investment advisor in their entirety and issued a zero
dollar award.

Directors and Officers (D&O) and Errors and Omissions (E&O) Liability

Dismissal following week long trial of claims against an insurance broker for allegedly
failing to procure insurance for a residential building despite receiving specific
instructions to do so and submission of an application for same, leaving owner

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- uninsured for severe personal injury claims arising from malfunctioning radiator
- Dismissal on summary judgment following extensive discovery (involving 73 days of depositions) of fraud claims asserted against insurance brokerage division of internationally known financial services firm in a suit alleging a scheme to defraud real estate developer involving complicated advance fee loan scam, resulting in actual damages totaling \$38 million
- Dismissal of claims against insurance broker for alleged failure to advise in connection
 with purchase of coverage for art gallery after it sustained substantial losses as a result
 of agreeing to indemnify purchaser of famous artist's work if it's provenance was
 successfully challenged (affirmed on appeal to Appellate Division, First Department)

Insurance Agents and Brokers

• Successful defense of negligence, gross negligence, breach of fiduciary duty, unjust enrichment, and false and deceptive advertising claims based on alleged misconduct by a large, national insurance brokerage which offered a variety of risk management services to high net worth couple who had used the broker to purchase insurance for approximately 15 years. Plaintiffs had suffered a multi-million dollar loss as the result of a cyber hack into their email account, leading to the wiring of funds as payment towards false invoices their assistant was instructed to pay by the criminal conspirators who had hacked into the account. At the outset of the case, Peter obtained dismissal of plaintiffs' unjust enrichment and false and deceptive advertising claims, and obtained a second dismissal of those claims after they were re-pleaded in the plaintiff's amended complaint. Peter obtained summary judgment of the remaining claims after conclusion of discovery, which was focused on developing a factual record establishing the absence of the requisite "special relationship" between the plaintiffs and the defendant giving rise to a heightened duty of care necessary to successful prosecution of those claims.

Insurance and Reinsurance Coverage

- Summary judgment award voiding over \$200 million in reinsurance due to the fraudulent concealment of a cedent's insolvency (affirmed by the Appellate Division, First Department and the New York Court of Appeals)
- Decision (noted on the cover of the New York Law Journal) finding that it was the duty
 of an insurer to defend breach of fiduciary duty claims made against a law firm on the
 part of a legal malpractice insurer, despite the fact that only fraudulent conduct was
 specifically alleged

Legal Malpractice

- Dismissal (and affirmance by the NY Appellate Division, First Department) of legal malpractice claims against a law firm for allegedly making a disastrous "tactical" decision contrary to the client's wishes
- Dismissal of legal malpractice action against New Jersey based lawyer brought in New York state court on grounds of lack of personal jurisdiction, notwithstanding evidence of work periodically performed in New York, including litigating in New York state and federal courts; once severed from larger case alleging conspiracy to defraud, never further pursued
- Minimal dollar value settlement of \$15 million claim alleging malpractice in the handling of maritime arbitration, after deposition of plaintiff's renowned ethics expert

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- establishes he was himself practicing law in New York without a license
- No contribution settlement of alleged Judiciary Law Section 487 claim in alleged multimillion fraud involving alleged misuse of the courts to pursue and conceal same, following filing of motion to dismiss
- Successful argument of appeal to Second Circuit of case involving dismissal of claims
 against lawyer for alleged participation in international fraud scheme for failure to
 name the proper corporate party with standing, even after proper party was identified
 and plaintiff's counsel sought permission to amend, for failure to do so in keeping with
 Court's instructions regarding final amendments to Complaint, despite District Court
 acknowledging that the dismissal was quite likely to result in a fraud going
 unpunished

Municipalities and Public Entities

- Dismissal of the First Amendment claims of a high school art teacher disciplined for classroom "speech" in the form of a marketing handout soliciting student participation in a planned art school involving nude models (affirmed by the Second Circuit)
- Dismissal of a First Amendment claim arising from disciplining of an elementary school student for writing a story about murder and sex involving other students (affirmed by the Second Circuit)
- Dismissal of claims against a social services agency for violation of due process in connection with the removal of children from foster parents (affirmed by the Second Circuit)
- Dismissal of a Section 1983 claim for regulatory taking and defamation in connection with a town's issuance of notices of hearings for engaging in regulated activity on wetlands without a permit
- Dismissal of wrongful death claims (affirmed by the NY Appellate Division, Second Department) against a municipality for allegedly failing to protect two young women who had been walking on railroad tracks from an oncoming train because a police officer who had allegedly directed them into harm's way had not assumed a "special duty" to protect them

Commercial/Miscellaneous

- Dismissal of libel claims, both affirmed in precedent-setting decisions by the NY
 Appellate Division, First Department, based on a psychiatric evaluation report to an
 insurer as protected opinion, and based on a court-ordered report on the mental status
 of a criminal defendant by a social worker as protected by quasi judicial proceeding
 immunity
- Decision upholding the standing of a parent corporation to assert RICO claims for injuries to diminution in value of stock caused by racketeering activity directed at a subsidiary

HONORS & AWARDS

- Martindale-Hubbell Peer Review Rating: AV Preeminent
- America's Top 100 Bet-the-Company Litigators
- New York Metro Super Lawyers, 2009-10, 2012-24

BACKGROUND

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ADMISSIONS

- New York
- Connecticut (2019)
- U.S. District Courts for the Eastern and Southern Districts of New York
- U.S. District Court for the District of Connecticut
- U.S. Court of Appeals, Second Circuit
- U.S. Supreme Court

EDUCATION

- Fordham University School of Law, J.D., 1986
- Queens College, The City University of New York, B.A., cum laude, 1981

PROFESSIONAL AFFILIATIONS

- International Association of Defense Counsel
- Professional Liability Defense Federation (PLDF)
 - Board of Directors: President
 - President-Elect
 - Treasurer
 - Insurance Agents/Brokers Claims Committee: Former Chair
 - D&O/Trustee E&O Claims Committee: Former Chair
- American Bar Association (ABA)
 - · ABA SCOPE Correlation and Standing Committee
 - Tort Trial and Insurance Practice Section (TIPS)
 - TIPS Governing Council
 - The Brief, Editor in Chief
 - TIPS Section Conference Standing Committee
 - Liaison to the ABA Standing Committee on Lawyers' Professional Liability
 - Litigation Section
 - Employment and Labor Relations Committee
 - Insurance Coverage Litigation Committee
 - Professional Liability Litigation Committee
 - Professional Liability Insurance Committee (PLIC),
 Past Chair
- Professional Liability Underwriting Society (PLUS)
- Defense Research Institute (DRI)
- · Claims and Litigation Management Alliance (CLM)

PUBLICATIONS & EVENTS

PUBLICATIONS

- "Nuclear Verdicts in Management and Professional Liability: Identifying and Managing the Risk," Professional Liability Defense Quarterly, Vol. 17, Summer 2025
- "Disasters and Emerging Risks: What this Means for Insurers and Insurance

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- Agent/Broker E&O," (Author), article accompanying presentation at International Association of Defense Counsel (IADC) Professional Liability Roundtable held on May 15, 2025
- "Nuclear Verdicts in Management and Professional Liability: Identifying and Managing the Risk," (Author), article accompanying presentation at Claims & Litigation Management Alliance (CLM) Annual Conference held on April 9-11, 2025
- Recent Insurance Breach of Contract Decisions of Note, Goldberg Segalla Professional Liability Matters Blog, (Author) February 16, 2024
- "Double, Double, Toil and Trouble: The Intersection of Professional Liability and Cyber Risk," (Author), article accompanying presentation at CLM Annual Conference held on March 29-31, 2023
- "Recent Developments in Business Litigation," (Author), ABA Tort Trial & Insurance Practice Law Journal, Vol. 56, Issue 2, Spring 2021
- "Insurance Brokers Should Expect Wave of E&O Claims," (Author), Law360, July 26, 2021
- Featured Moderator on "COVID-19 Business Interruption Claims: A Discussion with Insurance Coverage Practitioners," The Brief, June 2, 2021
- Quoted in "Experts Expect Surge in Insurance Agency E&O Lawsuits in 2021," My New Markets, March 11, 2021
- Quoted in "2020 Could Make 2021 the Year of Insurance Agency E&O Lawsuits," *Insurance Journal*, January 21, 2021
- Quoted in "Documentation Crucial in E&O Coverage Suits: Experts," Business Insurance, November 10, 2020
- "Disasters, Catastrophic Events, and Pandemic: Identifying and Understanding the Agent/Broker E&O Risks and Preparing to Defense the Coming Wave of Claims," PLUS Journal, Spring/Summer 2020
- "Recent Developments of Note in Insurance Agent and Broker E&O," Professional Liability Defense Quarterly, Vol. 11, Fall 2019
- "Which Lawyer Was Responsible?" (Co-Author), PLUS Journal, 3rd Quarter 2019
- "Insurance Agent and Broker E&O 2018: The Year in Review," PLUS Journal, January 2019
- "Strategies for Defending the Insurance Agent/Broker E&O Claim, and Application," ABA TIPS Professional Liability Insurance Committee Newsletter, Winter 2018
- "Corporate D&O Liability and Sexual Harassment in the Workplace" (Co-Author), ABA GP Solo eReport, November 20, 2018
- "Defrosting Shareholder Actions for CyberInsecurity: D&O Liability for Inadequate Insurance Coverage" (Co-Author), ABA TIPS Professional Liability Insurance Newsletter, Fall 2018
- "Corporate D&O Liability and Sexual Harassment in the Workplace" (Co-Author), ABA The Brief, Volume 48 No. 1, Fall 2018
- "Insurance Broker E&O: Choice of Law Issues Arising in Multi-State Contexts" (Co-Author), *Professional Liability Defense Quarterly*, Volume 10 Issue 2, Spring 2018
- "Recent Developments Affecting Professionals', Officers', and Directors' Liability
 Insurance" (Co-Author), ABA Tort Trial and Insurance Practice Law Journal, Volume 53

 Issue 2, Winter 2018
- "Insurance Agent and Broker E&O 2017: The Year in Review," PLUS Journal, January 2018
- "Defending the Indefensible: Navigating the Strategic and Ethical Landscape of Defending Clients Who Have Engaged in Indefensible Conduct" (Co-Author), Tort Trial and Insurance Practice Law Journal, Spring/Summer 2017
- "Insuring The Sharing Economy and FINTECH: The Exposures and Related Coverage Issues, Where Things Now Stand and Where They May Be Heading" (Co-Author), Mealey's Emerging Insurance Disputes, July 21, 2017

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- "Legal Malpractice at a Crossroads: Managing the Looming Threats Facing Attorneys and LPL Professionals from the Explosive Growth of ESI and Social Media" (Co-Author), ABA The Brief, Spring 2017
- "The Evolution of Legal and Ethical Claims in the Age of Attorney Blogging" (Co-Author), DRI For the Defense, October 2016
- Does Broker Know Best When Purchasing Cyberinsurance?" (Co-Author), Law360, May 10, 2016
- "For Whom the Statute Tolls: Determining When a Legal Malpractice Claim Is Time-Barred" (Co-Author), ABA *The Brief*, Spring 2016
- Developments in Insurance Agent/Broker Professional Liability 2015: The Year in Review, Part II," PLUS Journal, March 2016
- Developments in Insurance Agent/Broker Professional Liability 2015: The Year in Review, Part I," *PLUS Journal*, February 2016
- "Recent Developments Affecting Professionals', Officers', and Directors' Liability" (Co-Author), ABA Tort and Insurance Practice Law Journal, Vol. 50:2, Winter 2015
- Developments in Insurance Agent/Broker Professional Liability 2014: The Year in Review, Part II," *PLUS Journal*, February 2015
- "Developments in Insurance Agent/Broker Professional Liability 2014: The Year in Review, Part I," PLUS Journal, January 2015
- For Whom the Statute Tolls (Co-Author), DRI For the Defense, September 2014
- "Enforceability of a Personal Jurisdiction/Forum Selection Clause Against an Employee's New Employer in a Non-Compete Dispute" (Co-Author), ABA Professionals', Officers', and Directors' Liability Newsletter, Summer 2014
- "For Whom the Statute Tolls" (Co-Author), Professional Liability Defense Quarterly, Summer 2014
- Quoted in "The Agent's Duty to Advise: Courts Get Tough," Rough Notes, June 2014
- "Insurance Agent and Broker E&O 2013: The Year in Review, Part 2," *PLUS Journal*, Vol. XXVII, No. 5, May 2014
- "The Legal Duties and Responsibilities of Insurance Agents and Brokers," chapter in Insurance Agency Risk Management: A Comprehensive Guide to Avoiding E&O Claims, Book Two, Agents of America / Thomson Reuters, May 2014
- Quoted in "Duty to Advise," Risk and Insurance, May 1, 2014
- "Insurance Agent and Broker E&O 2013: The Year in Review, Part I," PLUS Journal, Vol. XXVII, No. 4, April 2014
- "Insurance Agents and Brokers and the 'Duty to Advise,'" Corporate Counsel, April 8,
- "Brokers: Be Careful What You Promise," Property Casualty 360, March 13, 2014
- Editor, "Unit 3: Insurance E&O Fundamentals" and "Unit 4: Duties and Liabilities of Insurance Agents and Brokers," Module 20: Insurance Professionals, Professional Liability Underwriting Society, 2014
- Quoted in "NY High Court Chips Away at Broker Liability Shield," Law360, March 3, 2014
- "Recent Developments Affecting Professionals', Officers', and Directors' Liability" (Co-Author), ABA Tort Trial and Insurance Practice Law Journal, Fall 2013
- Quoted in "Navigating Uncharted Waters," Risk & Insurance, November 2013
- Quoted in "Brokers Face Legal Battles," Risk & Insurance, October 14, 2013
- "Developments in Insurance Agents and Brokers E&O 2012," PLUS Journal, January 2013
- "Recent Developments in Insurance Coverage" (Co-Author), ABA Tort and Insurance Practice Law Journal, Winter 2013
- "Marketing, Quoting, and Proposal," chapter in Insurance Agency Risk Management: A
 Comprehensive Guide to Avoiding E&O Claims, Book One, Agents of America / Thomson

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Reuters, 2012

- "What Can We Do About Ben? Examining the Duty to Advise," National Underwriter P&C, June 25, 2012
- "Insurance Agents and Broker E&O: Developments in the Law on the Duty to Advise," *PLUS Journal*, April 2012
- "Courts Shield Agents, Brokers from Added Duties to Procure Coverage," National Underwriter P&C, April 11, 2011
- "Special Circumstances May Mean Agents, Brokers Owe Greater Duties," National Underwriter P&C, April 18, 2011
- "Developments in Insurance Agents and Brokers Errors and Omissions Liability, 2009–2010," ABA Tort and Insurance Practice Law Journal's Annual Survey of the Law of Professional Liability, 2011
- "Developments in Insurance Agent and Broker E&O: 2007," ABA Professionals', Officers', and Directors' Liability Newsletter, 2008
- "Murder Plot: Can Life Policy Sale Create Liability?" National Underwriter Magazine Vol. 109, No. 34, September 12, 2005
- "The Broker's Liability for Misrepresentations in the Policy Application," *PLUS Journal*, *Vol. XVIII*, *No. 3*, March 2005
- "Recovery and Calculation of Attorney's Fees Under Title VII," The Job Description, 2005
- "Agency and Broker E&O: The Year in Review," PLUS Journal, Vol. XVII, Nos. 3 and 4, February—March 2004
- "In Your Corner," PIA Magazine, 2002-2004
- "Tactical Use of State Laws Requiring Unauthorized Insurers to Post Pre-Answer Security," ABA Tort and Insurance Law Journal, 1996
- "Section 1983 and Actions by Family Members Based on Deprivation of the Constitutional Right to 'Family Association' Resulting from Wrongful Death: Who Has Standing?" Fordham Urban Law Journal, 1986

PRESENTATIONS

- "Insurance and the Catastrophe: Examining the Increasing E&O Risks Presented,"
 International Association of Defense Counsel's Professional Liability Roundtable, May
 15, 2025
- "Runaway Verdicts in Management and Professional Liability," CLM Annual Conference, Dallas, TX, April 10, 2025
- "Lawyers' Professional Liability at the Precipice: Anticipating, Identifying, and Preparing for the Coming LPL Risks," Spring 2025 ABA National Legal Malpractice Conference, Charlotte, NC, April 2-4, 2025
- "Insurance Agent and Broker E&O in 2024: Trends, Traps, and Strategies for Risk Avoidance," Client Presentation, July 24, 2024
- "From the Bottomless Ocean of Litigation Data: Addressing Ethical, Practical, and Cost Concerns," CLM Annual Conference, San Francisco, CA, April 4, 2024
- "Mediating a Third-Party Claim Where the Insured and the Insurer are at Odds," New York State Bar Association, April 1, 2024
- "Attorney Advertising Today: Understanding, Assessing, and Navigating the Significant and Expanding Risks," 2023 DRI Professional Liability Seminar, New York, NY, November 30, 2023
- "Double, Double, Toil and Trouble: The Intersection of Professional Liability and Cyber Risk," CLM Annual Conference, Tampa, FL, March 30, 2023
- "Insurance Agent and Broker Malpractice: Identifying and Mitigating Risks, Defending E&O Claims," Co-Presenter, Strafford CLE, September 21, 2021

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- "Legal Malpractice and COVID-19: A Q&A with Two Legal Malpractice Insurance Carriers," PLDF, May 21, 2020 (login required)
- "Data Breaches and Cyber Crime: The Expanding D&O and E&O Risks," Managing Risk at the Intersection of Cybersecurity, Data Privacy and Business, Atlanta, GA, March 5, 2020
- "When the Bubble Bursts: What Happens When the Longest Bull Market in U.S. History Hiccups?," PDLF Annual Meeting, Chicago, IL, September 25, 2019
- "Managing EPL and Management Liability Risks in the Wake of the #MeToo and #TimesUp Movements," 2019 TIPS Section Conference, New York, NY, May 2, 2019
- "#MeToo and the Emerging D&O Risks," CLM Annual Conference, Orlando, FL, March 13, 2019
- "Disasters and the Insurance Agent/Broker, Insurance Consultant, and Risk Manager," ABA and PLDF Panel, "Disasters: The Emerging D&O, E&O and Corporate Risks," New York, NY, February 5, 2019
- Moderator, "Special Relationships, the Duty to Advise, and the High Stakes Insurance Agent and Broker E&O Claim: Strategies for Defending and Trying These Cases," PLDF Annual Meeting, New Orleans, LA, October 5, 2018
- "The ESI and Social Media Monster," ASPEN Insurance CLE, June 18, 2018
- "Corporate/D&O Liability and Sexual Harassment in the Workplace: The New Paradigm and How to Manage the Risks Presented," New York State Bar Association, New York City, NY, May 24, 2018
- Moderator, "Managing and Defending the High Stakes Insurance Agent and Broker E&O Claim," CLM Annual Conference, Houston, TX, March 14, 2018
- "Legal Malpractice at a Crossroads? The Looming Threats" (Co-Presenter), CLM Annual Conference, Nashville, March 29-31, 2017
- "Strategic and Ethical Landscape of Defending Clients Who Have Engaged in Indefensible Conduct" (Co-Presenter), ABA Annual Meeting, San Francisco, August 5, 2016
- "The Sharing/On-Demand Economy: The Issues and Exposures," 12th Annual National Directors Offers Insurance ExecuSummit, Uncasville, CT, May 17, 2016
- "Strategies for Defending the Seemingly Indefensible Claim," New York, NY, September 29, 2015
- Moderator, "Relationship Advice: Analyzing Claims-Made Coverage and When Claims 'Relate Back' to Prior Policy Periods," 11th Annual National Directors and Officers Insurance ExecuSummit, Uncasville, CT, May 20, 2015
- "Legal Malpractice," ABA Spring Conference, Philadelphia, May 1, 2015
- "Defending the Insurance Agent and Broker E&O Claim Arising From the Insurance Application Process — The Changing Landscape," DRI Professional Liability Seminar, New York, NY, December 4, 2014
- Panelist, ABA TIPS Professionals, Officers and Directors Liability Committee Leadership Meeting, Boston, August 8, 2014
- Moderator, "Insurance Agents E&O: Wait, Wait, There's a Duty to Do What?" 2013 PLUS International Conference, Orlando, FL, November 5, 2013
- "Handling the Case Involving Allegations of Fraud or Other Malfeasance by an Employee," WESFACCA Annual Ethics CLE, New Castle, NY, October 24, 2013
- "Professional Liability Coverage in Dispute: The Usual Suspects and Developing Issues," Thomson Reuters Webinar, July 17, 2013
- Moderator, "Super Storm Sandy A Professional Liability Perspective," PLUS Mid-Atlantic Chapter Workshop, Philadelphia, PA, May 9, 2013
- "Professional Liability Coverage in Dispute: The Usual Suspects and Developing Issues,"
 ABA Insurance Coverage Litigation Committee Midyear Meeting, February 14–16, 2013
- Moderator, "The Fraud Monster: The Effects of Fraud on Professional Lines Coverage,"
 PLUS International Conference, November 10, 2010

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• "The Insurance Broker and Coverage Disputes: Emerging Issues," ABA Insurance Coverage Litigation Committee Annual Meeting, March 4–6, 2010

WEBINARS

- "Emerging Trends in Lawyers Professional Liability Risks," (Moderator), Professional Liability Defense Federation, November 19, 2024
- "Forging Critical Pathways to Mediation Success: A Candid Conversation with Top Mediators," (Moderator), Professional Liability Defense Federation, September 4, 2024
- "2020's Extraordinary Developments and the Anticipated Impact on Agent/Broker E&O" (Co-Presenter), PLDF Professional Liability Webinar Series, November 6, 2020
- "Defense Strategies for Traditional and Emerging Sources of Insurance Agent/Broker E&O Exposures" (Co-Presenter), Cyber, Management, & Professional Liability Webinar, November 6, 2019

PODCASTS

- Host, "The Precipice," Podcast Series, Professional Liability Underwriting Society (PLUS), 2024-25. Click here for the latest podcast in the series
- Contributor, "Insurance Agent and Broker E&O," Timely Notice, July 31, 2018