

“Certificates of Insurance – 2015 Edition”
**Continuing and Emerging COI Issues, ISO’s Bizarre New AI Endorsements, Contractual Liability Challenges,
and Other Stuff That May Scare the Living Daylights Out of You**

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Introduction

- A quick look at the past decade
- Reaffirming the purpose of a COI
- The bottom line

Where the Problems Most Often Begin...Contracts Your Customers Enter Into

- Policies impacted
 - ISO vs. non-ISO and the “RTFP” doctrine
 - Commercial lines...CGL, BAP, CP, BOP
 - Personal lines...HO, PAP
- Construction contracts
- Leases (FDLL, etc.)
- Loan agreements (triple net leases, etc.)
- Condo by-laws and CCRs
- Problems created by lack of contracts (furniture delivery, automatic AI endorsements, etc.)

Additional Insureds

- ISO’s bizarre new AI endorsements...be careful what you ask for!
 - Why ISO makes policy form changes
 - The CG 20 33 “contractual privity” problem
 - ISO’s solution...the CG 20 38
 - The CG 20 38 “performance privity” problem
 - New “extent permitted by law” AI language
 - Policy *limits* subject to third-party contracts (and the COI conundrum)
 - Policy *terms* now subject to third-party contracts
 - Future impact on contracts?
- Terrible non-ISO forms
 - Vicarious liability only
 - Excess only
 - Written contract requirements (not on most ISO forms)
 - Cross liability exclusions
- SIRs
- AI requests for auto and other non-CGL policies
- “Who Is An Insured” CGL problem
- Waivers of subrogation

Contractual Insurance Requirements...What Can or Can’t You Do?

- Requirement to insure indemnity agreements
- Primary and noncontributory requirement
 - Why it’s impossible
 - ISO’s new CG 20 01
 - Non-ISO forms
- “Following form” umbrella/excess requirements
- A few dozen examples of what you shouldn’t do and why
 - Uninsurable requests

- “Illegal” requests
- Inappropriate requests
- Impractical requests
- How you can decline a “request” ...model laws and regs

More Certificate Issues

- Sending certificates to insurers...the Nike approach
- Repercussions of failure to comply with contractual/insurance requirements
 - Agents
 - Hair-pulling
 - Loss of account
 - Charges of fraud or misrepresentation
 - E&O policy exclusions
 - Insureds
 - Prohibited from working
 - Payment withheld (and what to do about this threat)
 - Insured defaults on contract
- Online certificate tracking systems
- Keeping up with ACORD changes

Live Session: YOUR Q&As

Conclusions

- RTFP!
- The future?