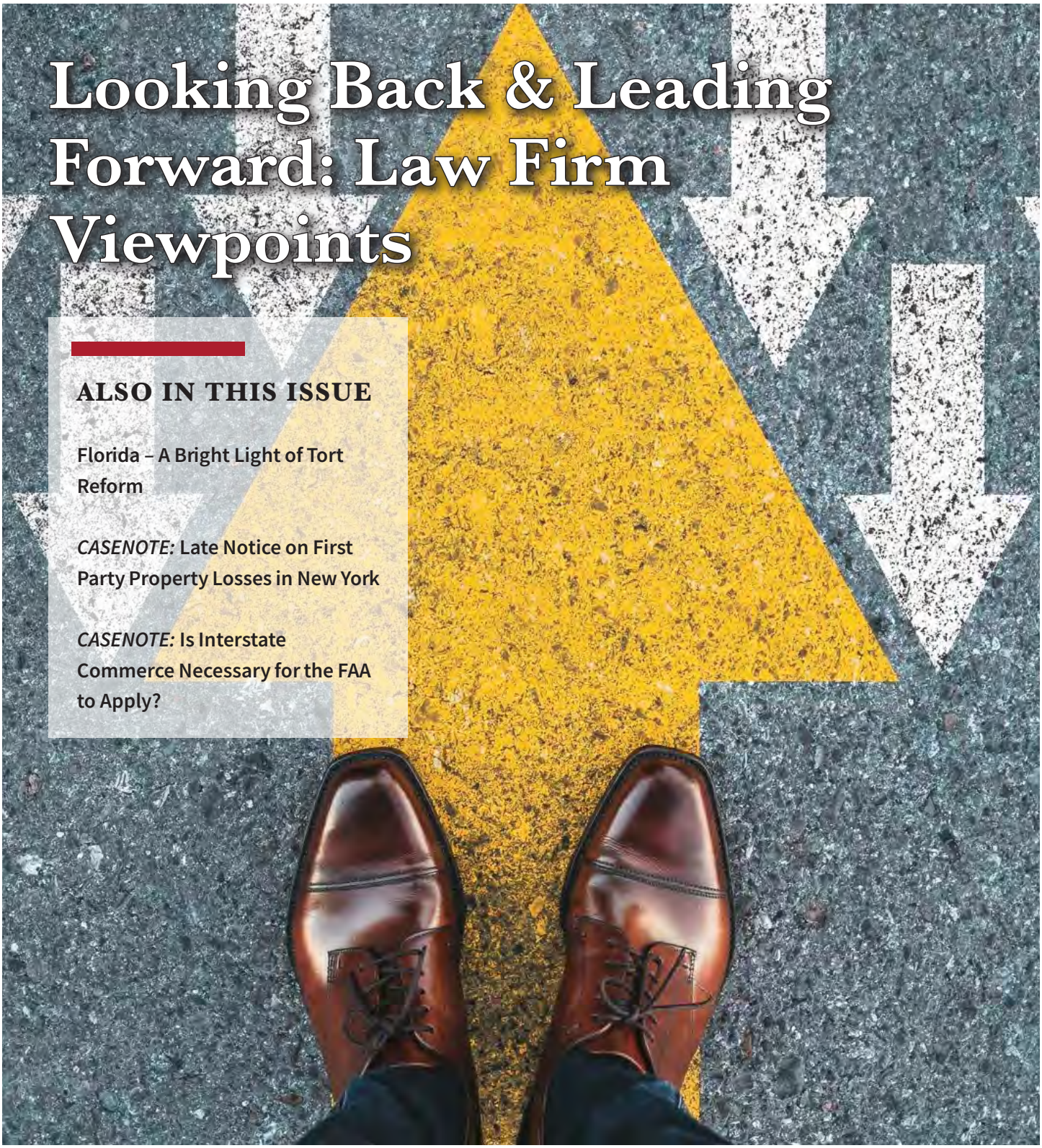
ARIAS U.S.

QUARTERLY



Looking Back & Leading Forward: Law Firm Viewpoints

ALSO IN THIS ISSUE

Q2 • 2026

TABLE OF CONTENTS

FEATURES

ALSO IN THIS ISSUE

EDITORIAL POLICY — ARIAS·U.S. welcomes manuscripts of original articles, book reviews, comments, and case notes from our members dealing with current and emerging issues in the field of insurance and reinsurance arbitration and dispute resolution. All contributions must be double-spaced electronic files in Microsoft Word or rich text format, with all references and footnotes numbered consecutively. The text supplied must contain all editorial revisions. Please include a brief biographical statement and a portrait style photograph in electronic form. The page limit for submissions is 5 single-spaced or 10 double-spaced pages. In the case of authors wishing to submit more lengthy articles, the *Quarterly* may require either a summary or an abridged version, which will be published in our hardcopy edition, with the entire article available online. Alternatively, the *Quarterly* may elect to publish as much of the article as can be contained in 5 printed pages, in which case the entire article will also be available on line. Manuscripts should be submitted as email attachments. Material accepted for publication becomes the property of ARIAS·U.S. No compensation is paid for published articles. Opinions and views expressed by the authors are not those of ARIAS·U.S., its Board of Directors, or its Editorial Board, nor should publication be deemed an endorsement of any views or positions contained therein.

This issue reaches you after a wildly successful Spring Conference in Nashville. In our next issue we will have our recap article, but a big thank you goes out to our fabulous Co-Chairs Susan Claflin, Kyley Davoodi, Frank DeMento and Joshua Schwartz and to Angela and Jamil from DPS for organizing and running the conference in my absence. But let's turn to this issue of the Quarterly.

This issue leads off with the third installment from the Future Leaders Committee in their series of roundtables with ARIAS leaders. This time, the committee interviewed three law firm partners whose professional journeys, through ARIAS and beyond, remind us that growth is built on the foundation of experience. Titled: "Looking Back & Leading Forward: Law Firm Viewpoints - ARIAS Veterans Share Memories and Wisdom for the Future Generation." The interviewers from the committee were Savannah Billingham-Hemminger (Troutman Pepper Locke LLP) and Janine Panchok-Berry (O'Melveny & Myers LLP).

We are experiencing another cycle of tort reform and Frank DeMento and Bryan McCarthy (TransRe) give us the lowdown in "Florida – A Bright Light of Tort Reform." This follows up on the Georgia Tort Reform article in our last issue from the TransRe team.

Next, and once again, Editorial Board member and prolific author Robert Hall tackles an often controversial topic addressing late notice in New York. In this issue, Bob presents another case note titled: "Late Notice on First Party Property Losses in New York" discussing a recent case on the topic. Bob also authored a second case note on "Is Interstate Commerce Necessary for the FAA to Apply," another interesting arbitration question. Be like Bob, submit your thought leadership for our next issue.

Please enjoy this issue of the Quarterly. Thank you to our authors. Please keep your articles coming. The deadlines and requirements are on the ARIAS website under Publications. We welcome ARIAS committee reports, letters to the editor, original articles and repurposed articles from ARIAS CLE programs. If you were on a panel at the Spring Conference or made a program proposal that was not accepted, please turn your presentation or proposal into an article for the Quarterly.

Larry P. Schiffer
Editor

Looking Back & Leading Forward: Law Firm Viewpoints

ARIAS Veterans Share Memories and Wisdom for the Future Generation

Interviewers: Savannah Billingham-Hemminger and Janine Panchok-Berry.
Panel: Allen Burton, Leslie A. Davis, and Teresa Snider

The Future Leaders Committee is proud to present its third installment in a three-part series that brings together emerging professionals and long-standing members of the ARIAS community. This Q&A piece features the reflections of three law firm partners whose professional journeys, through ARIAS and beyond, remind us that growth is built on the foundation of experience. The Future Leaders Committee would like to thank Allen Burton, Leslie A. Davis, and Teresa Snider for their thoughtful contributions.

Allen Burton is a member of O'Melveny's Policy Committee, its firmwide governing body. He formerly served as chair of the firm's Insurance Practice and managing partner of the New York office. In addition to representing some of the nation's leading insurance companies, Burton regularly counsels businesses in the financial services, aviation, healthcare, and software industries.

Leslie A. Davis is a partner in Troutman Pepper Locke's Washington, D.C. office whose practice focuses on complex insurance and reinsurance disputes. She represents domestic and international insurers and reinsurers in high-stakes litigation and arbitrations involving life and catastrophe reinsurance, property

and casualty risks, and portfolio-wide coverage and reinsurance issues.

Teresa Snider is co-chair of Porter Wright's Reinsurance Litigation and Arbitration Practice Group. She began her reinsurance career at Butler Rubin, which merged into Porter Wright in 2019.

We also thank Savannah Billingham-Hemminger and Janine Panchok-Berry for serving as interviewers.

— The ARIAS Future Leaders Committee Co-Chairs
Kyley Davoodi & Shermineh ("Shi") Jones

1. What was your first experience with ARIAS?

Allen Burton: My first experience with ARIAS actually came through Josh Schwartz, who was at Chubb at the time. He explained to me what ARIAS was all about — its mission, its community, and its role in the reinsurance arbitration space. Until then, my arbitration experience was focused on direct insurance matters under the rules of other arbitral organizations. Josh and I worked together on a reinsurance arbitration, and through that process I became familiar with the ARIAS rules, the caliber of its arbitrators, and the unique way the organization brings together practitioners from across the industry. It was a turning point in how I thought about reinsurance dispute resolution.

Leslie A. Davis: I attended a Spring Conference at the Breakers in the mid-2000s with a team of attorneys that I worked with, most of whom were more senior than me.

Teresa Snider: Early in my career, I was reading articles in the ARIAS Quarterly as a junior associate at Butler Rubin. It was a great way to learn about the legal issues both with respect to reinsurance and arbitration. My very first case at Butler Rubin involved a reinsurance arbitration, so I have been familiar with ARIAS·U.S. from the outset of my career.

2. Is there any one thing that you did early in your re/insurance career that was most impactful? Anything you didn't do but wish you did?

Allen Burton: Without question, the most impactful thing I did early on was getting substantive hearing experience before engaged arbitrators. There is simply no substitute for being in the room and seeing how seasoned arbitrators react to arguments—not just from a legal perspective, but from an industry perspective as well. Those early experiences taught me the importance of thinking backwards at the outset of a case: before you draft a single brief or take a single deposition, you need to have a clear picture of what your themes and principal points will be when you stand up for closing submissions. That discipline of working from the end result backward has shaped the way I approach every matter, and I credit those formative hearing experiences with instilling it early.

Leslie A. Davis: Among the most impactful things I did early in my career was getting to know arbitrators and other attorneys in the re/insurance space, both in-house and outside counsel. I participated in a few arbitrations before becoming involved with ARIAS, and I learned that there is significant value in

"There is simply no substitute for being in the room and seeing how seasoned arbitrators react to arguments—not just from a legal perspective, but from an industry perspective as well."

relationships and being familiar with those you are appearing in front of and litigating with/against. Looking back and recognizing how important it can be, I would have sought out those opportunities even sooner.

Teresa Snider: Having Jim Rubin as a mentor had, by far, the most impact on my reinsurance career. I spent many hours working with and learning from him. I joke that the reason I became involved with reinsurance is sheer luck. I met Jim when I interviewed at Butler Rubin for a job for an interim period between law school and a federal clerkship. After that fall at Butler Rubin and my clerkship, I knew I wanted to go back to Butler Rubin to continue working with the people there as part of the reinsurance practice. As to anything I didn't do but wish I did, I wish I would have taken better advantage of the networking opportunities afforded by the ARIAS conferences. In the long run, the time spent meeting people is as valuable as the time spent doing research, reviewing documents, and writing briefs.

3. Sitting here today, what is your most memorable professional relationship that originated through ARIAS?

Allen Burton: As someone who practices in both the direct insurance and reinsurance areas, I have been fortunate to develop many overlapping professional relationships that ARIAS has helped to deepen and reinforce—both on the client side and the arbitrator side. It is hard to single out just one. While not technically originating through ARIAS, I would be remiss not to mention Josh Schwartz. Josh is someone I am lucky enough to call both a close friend and, in many ways, an ARIAS-induced professional partner. Our work together in the reinsurance arbitration space has been one of the most rewarding collaborations of my career, and ARIAS has been the thread running through it.

Leslie A. Davis: There are too many to list, as I have developed a number of meaningful and memorable professional relationships through ARIAS!

Teresa Snider: I cannot pick just one—I have been involved for so long and have many wonderful relationships as a result. Everyone in the community has always been so collegial.

> "In the long run, the time spent meeting people is as valuable as the time spent doing research, reviewing documents, and writing briefs."

4. How does your engagement with ARIAS and the value you derive from it impact your practice?

Leslie A. Davis: Being an ARIAS member gives me access to various educational opportunities that are directly relevant to, and inform, my practice. My engagement with ARIAS also has afforded me the opportunity to get to know arbitrators, insurer and reinsurer representatives, experts/consultants, and counsel engaged in this practice on a personal and industry level, which is valuable in many ways. Those relationships help as we engage in arbitrations or work that may end up in a dispute, as we develop working relationships outside of an adversarial context that can be useful when we are in one.

Teresa Snider: One of the best things about ARIAS is that you get to know opposing counsel, arbitrators, in-house counsel—really everyone who is part of the reinsurance arbitration community. Building relationships tends to make the litigation process run more smoothly. You get comfortable picking up the phone and talking to just about anyone who practices in this area because you've worked with them before or at least met them. And, when you know you will see the same people over and over again in the future, it promotes good behavior.

5. How would you recommend that newer and/or younger members make the most out of ARIAS?

Allen Burton: Attending conferences is an essential starting point—the programming is excellent, and the exposure to experienced practitioners and

arbitrators is invaluable. But I would emphasize that what happens between the conferences is perhaps even more important. The follow-up, the relationship building, the willingness to reach out to someone you met over coffee and continue the conversation—that is where the real value of ARIAS membership comes to life. Younger members should not be shy about introducing themselves to more experienced practitioners, volunteering for committees or panels, and staying engaged with the organization year-round rather than just showing up once or twice a year.

Leslie A. Davis: Take advantage of the educational opportunities, as they are provided by leaders in the industry with a wealth of knowledge that is invaluable. Also, while it is easy to skip meeting sessions or networking opportunities because of pressing work matters, one of the most important aspects of ARIAS is the networking and getting to know the players in our industry. Take the time, put yourself out there and meet people. There are many ways to do it—volunteering, joining an ARIAS committee, attending formal networking, striking up a conversation during coffee breaks or lunch—so you can find a way that best suits you. You will be pleasantly surprised at the returns you get, personally and professionally.

Teresa Snider: Get involved: go to conferences and events, meet as many people as you can, and join a committee to develop deeper relationships with your peers. And write an article (or two) for the Quarterly!

6. How can ARIAS continue to engage and support its members, especially the new generation?

Allen Burton: ARIAS should continue to offer thoughtful and timely CLE programs that address the evolving landscape of reinsurance disputes, and to create meaningful opportunities for members to connect across experience levels. Mentorship initiatives, smaller networking events, and programming specifically designed to spotlight emerging voices in the field would go a long way toward making newer members feel like they have a real stake in the organization. The strength of ARIAS has always been the quality of its community, and investing in the next generation of that community is critical to the organization's long-term vitality.

Leslie A. Davis: Continue involving members at every level. Our most junior members one day will be our leaders, so it is important to make sure the newer generation understands why we do what we do, and that they get exposure to the generations that right now are running and participating in the arbitrations and developing ARIAS practices and rules so that the experience—including things we might want to change!—is passed on and shapes their practices in days, months, and years to come.

Teresa Snider: The Future Leaders Committee has been a great addition. We need to get the younger generation more involved in programming, particularly as speakers at conferences. They are the key to telling us what is of interest to them and what problems they are facing in the current reinsurance landscape. That said, some of what ARIAS has done in the past is just as applicable now, so we don't need to entirely reinvent the wheel. For example, we had a conference session about ten years ago where we had breakout discussions of an ethics problem, which was engaging and practical.

7. Do you have a favorite ARIAS memory?

Leslie A. Davis: There are so many, it is difficult to choose just one. Every

> "Take advantage of the educational opportunities, as they are provided by leaders in the industry with a wealth of knowledge that is invaluable."

ARIAS conference I attend is unique in various ways, but my favorite memory is always getting to know ARIAS members—arbitrators, in-house personnel, and counsel—better on a personal level as well as a professional level. If I had to choose a favorite specific memory, it was one of my first ARIAS conferences where it felt like I did not know enough people in the room to even be there. Beyond the support I had from my team, I was welcomed by so many ARIAS members and leaders who went out of their way to get to know me during that conference (and in those that followed).

Teresa Snider: Lounging by the pool at spring conferences with friends!

8. How do you see the future of ARIAS and its role in the industry?

Allen Burton: I see ARIAS continuing to play a vital and growing role in the reinsurance industry. As reinsurance disputes become more complex—driven by evolving risk landscapes, new policy forms, and emerging regulatory considerations—the need for a specialized arbitral forum staffed by practitioners who truly understand the business will only increase. ARIAS is uniquely positioned to meet that need. At the same time, the organization has an opportunity to broaden its reach by attracting a more diverse membership and ensuring that its procedures and practices continue to reflect best-in-class standards for efficiency and fairness. I am optimistic about ARIAS's future and proud to be part of it.

Leslie A. Davis: For re/insurance that largely relies on ad hoc arbitrations, ARIAS is well established and will continue to be central to the industry. Over time, representing both reinsurers and cedents, there have been questions as to whether resolving disputes in courts or through administered arbitrations may be preferable. But time and again, my clients have decided that relying on an ad-hoc process with arbitrators who know this industry is the better way to go. Thus, while ARIAS will continue to be significant, we can undertake changes and transitions—as we have with respect to the ARIAS Umpire questionnaire and the new neutral rules—to address issues and desired changes or options in the industry as we continue to progress.

Teresa Snider: I think it will continue to serve an important role in educating and training arbitrators as well as in promoting ethics and the code of conduct.

Savannah Billingham-Hemminger is an attorney in the firm's Insurance + Reinsurance Practice Group. Her practice involves litigation, arbitration, and counseling on a variety of commercial disputes, with an emphasis on complex insurance and reinsurance matters. Billingham-Hemminger has experience in pre-litigation issues, including claims handling, claims investigation, and general coverage, as well as with a wide range of insurance policies including directors and officers (D&O), commercial general liability, professional indemnity, and architects and engineers (A&E).

On reinsurance matters, Billingham-Hemminger has worked on various cases through all stages of arbitration. She has experience with reinsurance disputes involving yearly renewable term reinsurance premiums, recapture provisions, and policy exclusions.

As a Legal 500 US Rising Star, Janine Panchok-Berry has represented insurers in complex commercial litigation in federal and state court at every stage of litigation, guiding clients from pre-litigation through appeal, and in arbitration matters (domestic and international). She has spoken at national conferences—including Perrin Conferences and ARIAS—on insurance law and arbitration, and her work has appeared in Crain's New York Business and the New York Law Journal.

Panchok-Berry focuses on the confluence of insurance and bankruptcy law, advising on coverage issues in mass-tort bankruptcies, including In re Imerys Talc America and In re Boy Scouts of America.

Florida – A Bright Light of Tort Reform

By Frank DeMento and Bryan McCarthy

In response to rapidly rising social inflation and insurance premiums, Florida passed new tort reform legislation in late 2022 (Senate Bill 2-A) and early 2023 (House Bill 837). The changes impact property and casualty lines to help level the playing field between plaintiffs, defendants, and insurers.

Property

1. Assignment of Benefits

Problem: Insureds assigned their insurance benefits to contractors who fixed the property and then filed a claim with the insurance company, leading to inflated costs, unnecessary repairs, and the inability of insurers to recommend repair contractors.

Reform: *Policyholders can no longer assign their insurance benefits to contractors.*

2. One Way Prevailing Party Attorney Fees

Problem: Plaintiff attorneys could recover their fees from insurers if the judgment was more than the insurer's initial offer to settle, which impeded settlement and incentivized plaintiff attorneys to go to trial.

Reform: *Plaintiff attorneys no longer recover their fees in this scenario.*

Casualty

1. Comparative Fault

Problem: Plaintiffs could recover damages from defendants, even when the plaintiff was mostly at fault.

Reform: *A change of standard from pure comparative negligence to modified comparative negligence, meaning plaintiffs no longer recover damages when apportioned >50% of fault by juries.*

2. Property Owner Liability
Problem: Property owners were being held fully liable for injuries to tenants, guests, and even those on the property to commit crimes.

Reform: *Fault is now apportioned between all parties contributing to the injury, and property owners owe no duty to criminal actors.*

3. Statute of Limitations
Problem: Four year statute of limitation for negligence claims.

Reform: *New two-year statute of limitations encourages plaintiffs to file earlier and allows defendants (and insurers) to gather evidence closer to the time of the event. This will likely reduce the number of frivolous claims and procedural delays.*

4. Phantom Damages
Problem: Plaintiffs could recover for all medical services billed, whether or not those bills were ultimately paid by the plaintiff or their health insurance.

Reform: *Plaintiffs can no longer receive awards for medical services billed but never actually paid.*

5. Plaintiff Attorney Fee Multipliers
Problem: Plaintiff attorneys were regularly awarded additional fees by the court beyond their contingency fee arrangement with their client.

> "The reforms have restored some balance to the litigation landscape, and Florida's insurers and policyholders are reaping the benefits."

Reform: *There is now a presumption that the standard fee is sufficient, and can only be overcome in exceptional circumstances.*

6. Bad Faith Claims
Problem: Plaintiff attorneys had no independent duty to act in good faith.

Reforms:

a) *Plaintiff attorneys and defendants/insurers now have separate, independent duties to act in good faith to each other when providing information, making demands, setting deadlines, and attempting to settle claims.*
b) *Negligence alone is no longer sufficient to constitute bad faith by insurers.*
c) *Insurers have 90-day "safe harbor" periods after receiving a demand and supporting evidence, during which no bad faith action can be brought just because the insurer tenders less than the amount demanded by the plaintiff.*
d) *Insurers can avoid excess of policy limits exposure or extra contractual obligations if they deposit limits with the court for apportionment.*

> "The changes have helped Florida's insurance market."

The changes have helped Florida's insurance market.

- Fourteen new insurers have set up shop.
- Auto and homeowners' insurance rates are falling. Progressive will refund ~$1B to drivers, citing reduced losses due to tort reforms, while twenty-seven insurers have filed to reduce homeowners' rates since January 2024.
- Average settlement times are down – fewer lawsuits mean clearer court dockets and more efficient litigation resolution processes.
- Florida was ranked #2 for nuclear (>$10M) verdicts from 2009-2022. In 2024 it was #10.

The reforms have restored some balance to the litigation landscape, and Florida's insurers and policyholders are reaping the benefits.

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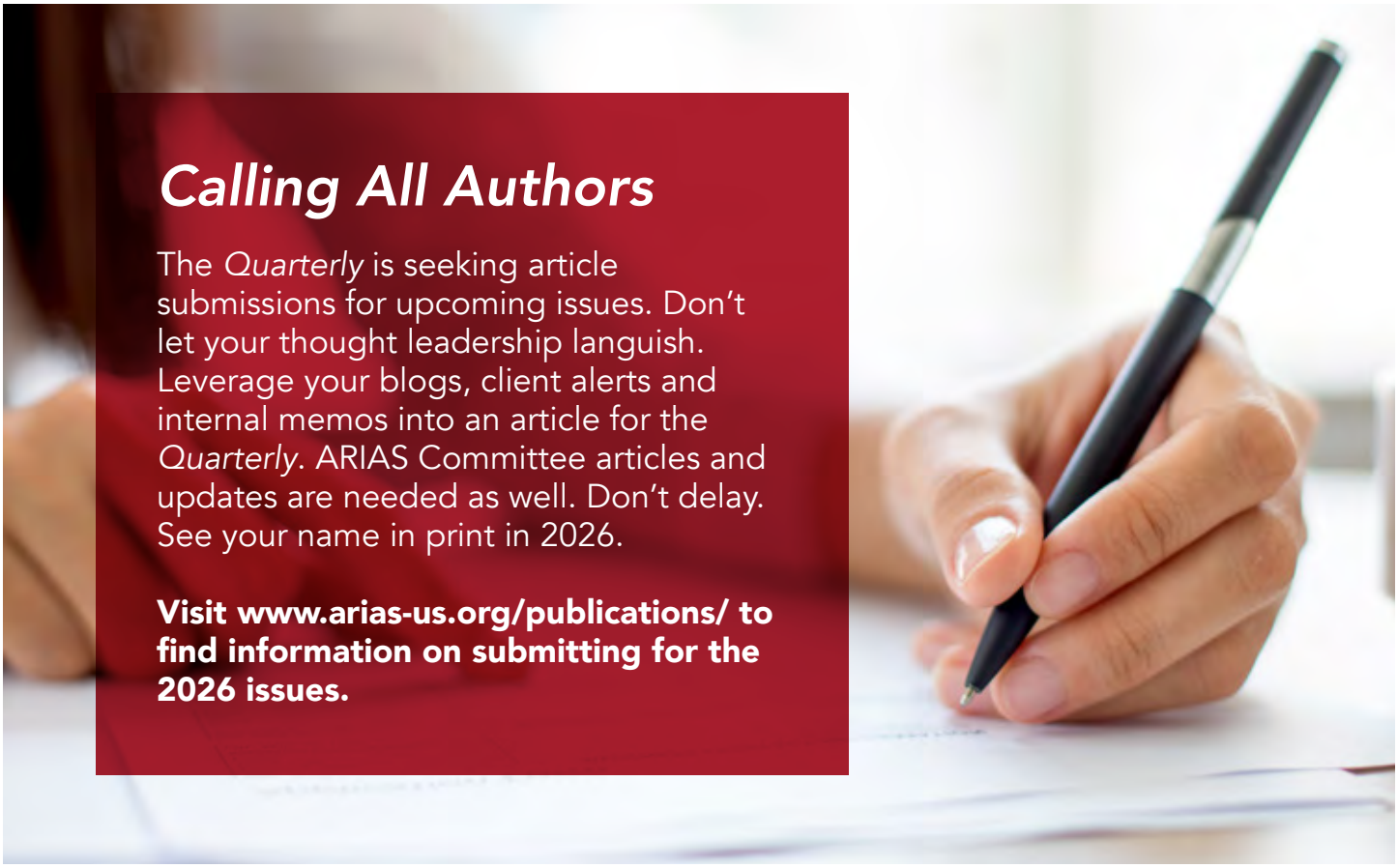
Frank J. DeMento is an experienced insurance and reinsurance lawyer and company officer. Currently, he is a Senior Vice President and claims manager at TransRe. Prior to joining TransRe, DeMento was Counsel in the insurance and reinsurance group of Crowell and Moring LLP. He also was a Vice President and managed the run-off claims unit, the retroceded claims unit, and was claims counsel for XL Reinsurance America, Inc. Before that, DeMento was a partner in the insurance and reinsurance litigation group at Mendes and Mount, LLP.

Bryan McCarthy is a Senior Vice President at TransRe. He is a member of the U.S. Custom Claim Team in New York. Previously, McCarthy worked for a commercial insurance carrier in claims management and claims adjusting roles since 2008. He has experience in managing and adjusting complex direct claim and reinsurance claim matters throughout the United States—including matters with disputed coverage, mass tort actions, Coverage B claims, Illinois BIPA claims, opioid claims, PFAS claims, commercial auto claims and environmental and toxic tort claims. McCarthy earned a JD, MBA, and undergraduate degree from Seton Hall University and currently maintains a New Jersey Bar License.



Late Notice on First Party Property Losses in New York

By Robert M. Hall

Deja Realty Corp. v. The Travelers Indemnity Company of America[1] involved first party property damage to an apartment building apparently due to excavation at a neighboring property. The damage was reported to the insured, the owner of the damaged property, on September 21, 2021. The owner of the damaged property sued the excavation company on December 10, 2021, and reported the loss to the insurer on September 28, 2022. Travelers denied the claim specifically citing an earth movement exclusion but also provided relevant policy language and reserved rights to other exclusions and conditions including the obligation to provide prompt notice of the loss.

The court noted that under New York law, compliance with notice provisions is a condition precedent to coverage and that prejudice to the insurer is not required. It also noted that the one year delay in notice well exceeded the time periods in other cases in which lack of timely notice was found, ruling that notice by the plaintiff was late as a matter of law. The court went on to rule that Travelers did not waive prompt notice:

> Given that the language of the Denial Notice includes a broad unequivocal reservation of rights, along with an express reference to the requirement that Deja Realty provide prompt notice, Travelers cannot be said to have voluntarily and intentionally waived its right to disclaim coverage for untimely notice. [2]

The court distinguished this first party insurance case from those involving third party liability:

> Deja Realty's reliance on N.Y. Ins. Law Section 3420, which was amended in 2008 to impose a prejudice requirement for policies is-

sued after January 17, 2009, is misplaced because Section 3420 applies only to liability policies, and not to property insurance policies like the Policy here.3

Endnotes

1 Case No. 1:24-cv-00278 (JLR) 2026 WL 683303 (S.D. N.Y. 2026).

2 2026 WL 683303 * 11.

3 *Id.* at *8.

Robert M. Hall spent twenty years as in-house counsel for various insurers and reinsurers, most recently as senior vice president and general counsel of a major reinsurer. He is a former partner of a leading law firm and currently is an ARIAS-certified arbitrator and umpire, an expert witness and a frequent author whose articles can be found on his website: robertmhalladr.com.

UPCOMING EVENTS

Webinar: A View From the Center Chair

June 09, 2026

1:00 pm

Speakers: Ann Field, Frank Lattal, Susan Grondine-Dauwer, and Mark Wigmore

2026 Fall Conference

November 12, 2026 - November 13, 2026

Marriott Marquis, New York City

2027 Spring Conference

May 05, 2027 - May 07, 2027

Naples Grande Beach, Naples, FL

Is Interstate Commerce Necessary for the FAA to Apply?

By Robert M. Hall

Tuufull v. Westcoast Dental and Administrative Services, 117 Cal. App. 5th 1048 (2026), was a suit by an employee of a California dental services organization against that organization for alleged violations of the California Labor and Business and Professions Codes. Her employment agreement provided that disputes would be arbitrated pursuant to the Federal Arbitration Act. When Westcost Dental sought to invoke the arbitration clause, the plaintiff opposed on the basis of lack of interstate commerce. When the lower court declined to dismiss the arbitration, the plaintiff appealed.

The California Court of Appeals affirmed noting that Section 2 of the FAA made arbitration clauses in contracts "involving commerce" enforceable, since such language "evidences the broadest possible commerce clause power by the Congress" *i.e.* broader than "in commerce." The court affirmed on a secondary basis that the parties can agree to structure their arbitration as they see fit and, in this case, chose to make it subject to the Federal Arbitration Act.

Robert M. Hall spent twenty years as in-house counsel for various insurers and reinsurers, most recently as senior vice president and general counsel of a major reinsurer. He is a former partner of a leading law firm and currently is an ARIAS-certified arbitrator and umpire, an expert witness and a frequent author whose articles can be found on his website: robertmhalladr.com.

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