

Duncan L. Clore

Senior Counsel

Duncan L. Clore counsels and represents clients on director & officer liability, fidelity, and surety issues. He has extensive experience representing foreign and domestic insurers on fidelity and D&O coverage matters, both regionally and nationally. He also has extensive experience representing contract sureties in construction disputes throughout Texas.

Duncan is a former Chair of the ABA/TIPS Fidelity & Surety Law Committee, and is the previous Chair of Strasburger's Fidelity & Surety Practice Group.

EXPERIENCE

- Represented fidelity bond insurer in connection with alleged claim against major stockbroker for over \$100 million in alleged losses resulting from alleged embezzlement scheme by former affiliated broker.
- Represented major fidelity bond insurer in claim by Ohio stockbroker for embezzlement loss involving its alter ego owner.
- Represented sureties in various performance and payment bond disputes throughout Texas, including alleged contractor defaults on projects involving the City of Corpus Christi and Ellis County, Texas.
- Represented one of the excess insurers in providing notice of intent to rescind a directors' and officers' liability insurance policy issued to Enron Corporation.
- Represented captive insurer for Independent Bankers Association of Texas as primary coverage counsel.
- Represented major fidelity insurer in coverage action involving prominent San Antonio hospital in action before United States Fifth Circuit Court of Appeals on interpretation of "Covered Instruments" provision in commercial crime policy.
- Represented the American Insurance Association in preparing amicus brief in successful appeal by surety, leading to an opinion that a surety does not owe a duty of good faith and fair dealing to its principal. *Associated Indem. Corp. v. C.A.T. Contracting*, 964 S.W.2d 276 (Tex. 1998).
- Represented insurer in important decision addressing scope of coverage for "forged instructions and advices" and the definition of "Covered Instruments." *K.W. Bancshares v. Underwriters at Lloyd's*, 965 F. Supp. 104 (W.D. Tenn. 1997).
- Tried and won complex fidelity case filed by FDIC against bankers blanket bond insurer for failed Texas bank. *FDIC v. Underwriters at Lloyds*, Civil Action No. A93CA489SS (W.D. Tex.).
- Represented fidelity insurer in landmark decision holding that bond terminated upon "taking over" of institution by federal officials. *Alec Sharp, et al. v. FSLIC*, 858 F.2d 1042 (5th Cir. 1988).
- Represented D&O insurer in important reported decision involving the scope and enforceability of notice provision of policy. *FDIC v. Barham*, 995 F.2d 600 (5th Cir. 1993).
- Represented D&O insurer in reported decision involving enforceability of regulatory exclusion. *Fid. & Dep. Co. of Maryland v. Conner*, 973 F.2d 1236 (5th Cir. 1992).
- Handled major fidelity bond claims arising out of numerous Texas bank and savings and loan failures, including InterFirst Bancshares, First Republic Bancshares, MBank Abilene, First City Bancshares, Western Savings, Independent American Savings, Sinton Savings, and Texas American Bancshares.

Presentations

- *The Principals' and Indemnitors' Rights and Obligations*, University of Texas and the State Bar of Texas Construction Law Section's Annual Construction Law Conference (April 1990)
- *Investigating Fidelity Bond Claims Pursued By Federal Regulators*, American Bar Association Annual Meeting (1989)
- *Surety Bond Claims*, University of Texas and the State Bar of Texas Construction Law Section's Annual Construction Law Conference (February 1989)
- *A Traveler's Guide to the S&L Bond and the D&O Liability Policy*, Dallas Bar Association (October 1988)
- *Suits Against Financial Institutions: Coverage and Considerations*, XX Forum (Fall 1984)

Publications

- Editor. *Financial Institution Bonds*, 3d Ed. (2008)
- *Discovery of Loss: The Contractual Predicate to the Claim*, *Financial Institution Bonds* (2008)



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Education

J.D., Southern Methodist University,
Dedman School of Law, Dallas,
Texas, 1976

B.A., Centre College, Danville,
Kentucky, 1970

State Bar Licenses

Texas

Court Admissions

U.S. District Ct., N.D. of Texas

U.S. District Ct., S.D. of Texas

U.S. District Ct., W.D. of Texas

U.S. Court of Appeals, 5th Circuit

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- Editor. *Bond Default Manual*, 3d Ed. (2005)
 - *Discovery of Loss*, Handling Fidelity Bond Claims (2005)
 - *Discovery of Loss*, Handling Fidelity Bond Claims (1999)
 - Editor. *Financial Institution Bonds*, 2nd Ed. (1998)
 - Chapter Author. *Discovery of Loss: The Contractual Predicate to the Claim*, Financial Institution Bonds (1998)
 - Editor. *Bond Default Manual*, 2nd Ed. (1995)
 - Editor. *Financial Institution Bonds* (1995)
 - *Discovery of Loss: The Contractual Predicate to the Claim*, Financial Institution Bonds (1995)
 - Chapter Author. *Discovery of Loss*, Financial Institution Bonds (1992)
 - Chapter Author. *The Insured's Obligation to Discover and Establish Its Loss*, Bankers and Other Financial Institution Blanket Bonds (1989)
 - Chapter Author. *Rights of Recovery of Banks Against Sureties, Insurers, and Officers and Directors in the 1980's*, Financial Institution Bond Litigation (1988)
 - Chapter Author. *Exclusions*, Annotated Financial Institution Bond (1988)

Practices, Industries & Services

Construction
Fidelity, Surety & Coverage
Insurance

Memberships

- American Bar Association, Tort and Insurance Practice Section, Chairman, Fidelity and Surety Law Committee (1996-1997), Forum on the Construction Industry
- State Bar of Texas, Construction Section
- Dallas Bar Association, Construction Section

Honors

- Named among Best Lawyers in America - Construction Law by Best Lawyers (2011, 2013-2021)
- Awarded Martin J. Andrew Award for Lifetime Achievement in Fidelity and Surety Law by the American Bar Association (2016)