

## Sunday, February 21

7:30 - 8:30 a.m.

### TRANSPORTATION COMMITTEE BUSINESS MEETING

#### Don't Pay Sticker Price on Medical Expenses - Practice Tips and Developing Law

During this business meeting there will be a short presentation. *This presentation will not be eligible for CLE credit.*

**Speaker:** *Walter H. Boone, Balch & Bingham LLP, Jackson, MS USA*

7:30 - 8:30 a.m.

### ALTERNATIVE DISPUTE RESOLUTION/TECHNOLOGY/TRIAL TECHNIQUES AND TACTICS

#### Technology Strategies for Lawyers Who Want to Win

Are you defending your cases for the Generation X and Y jurors? Are you prepared to talk to these jurors who turn to the internet and social media to get news and information, rather than to the evening network news or print newspaper? Are you taking depositions for people who now say that they see their smart phone as an "extension of their brain?" If not, 60 percent of the jury will not be listening to you. This program is designed for trial lawyers who want to learn how to best weave technology into their practices so that their clients are best represented in front of juries who expect the actors on *Law and Order* to be in their courtroom.

This program will offer insights and options on the latest and best technology available for defense attorneys to use in depositions, mediations, arbitrations, and trials. It will provide practical tips, tools, and strategies for practitioners to easily adopt into their practices so that they can effectively communicate with jurors who are used to technology in every aspect of their lives and expect it in the courthouse. This program is for lawyers who know that the effective use of technology is the only way to win.

DIRECTLY FOLLOWING THIS CLE PROGRAM THERE WILL BE A SHORT TRIAL TECHNIQUES AND TACTICS COMMITTEE BUSINESS MEETING. PLEASE STAY IF YOU ARE ABLE.

**Speakers:** *Douglas J. Moore, Irwin Fritchie Urquhart & Moore LLC, New Orleans, LA USA; Thomas G. Oakes, Thomas G. Oakes Associates, Cherry Hill, NJ USA*

7:30 - 8:30 a.m.

### AMICUS CURIAE/APPELLATE PRACTICE/BUSINESS LITIGATION

#### Don't Get Thrown Out of Court: Common Mistakes in Establishing Federal Subject Matter Jurisdiction

Sleeper jurisdictional defects can be a plaintiff's ticket out of a defense verdict, so it pays to avoid them. This panel will examine common pitfalls of federal-court subject matter jurisdiction, how to spot them, and how to fix them. Why focus on jurisdiction? Federal jurisdiction is a magic bullet. Jurisdictional defects cannot be waived, any party can raise them at any time, and courts must scrutinize jurisdiction even if no one disputes it. Courts of appeals regularly raise jurisdictional defects that went unnoticed through years of litigation. If there is no jurisdiction, the case – and hard-won verdict – must be thrown out.

**Speakers:** *Robert A. Brundage, Morgan Lewis & Bockius LLP, San Francisco, CA USA; Kendall Harrison, Godfrey & Kahn, Madison, WI USA; Mary-Christine "M.C." Sungaila, Haynes and Boone, LLP, Costa Mesa, CA USA*

7:30 - 8:30 a.m.

### DIVERSITY/EMPLOYMENT LAW/INTERNATIONAL

#### Disability Discrimination and Accommodation: Cutting Edge Issues and Solutions from Around the Globe

This interactive program will feature presenters from inside and outside the U.S. The program will address a variety of employment scenarios and include discussions of when certain conditions such as obesity, pregnancy, and depression may be considered disabilities, as well as potential opportunities, challenges, and risks in hiring disabled persons and accommodating disabilities in the workplace. Nadine O. Vogel will lead the discussion. She is the CEO of Springboard Consulting LLC, a global company working with national and multinational corporations, governments, and agencies around the world to mainstream disability in the global workforce and marketplace. Vogel is a 2015 Brava Award Winner, one of Smart CEO's powerhouse female business leaders, and a 2015 Humanitarian Award Honoree from the American Conference on Diversity.

**Speakers:** *Molly Hughes Cherry, Nexsen Pruet, LLC, Charleston, SC USA; Noriko Higashizawa, City-Yuwa Partners, Tokyo, Japan; Cecilia Lahaye, Van Olmen & Wynant, Brussels, Belgium; Nadine Vogel, CEO and Founder, Springboard Consulting LLC, Mendham, NJ USA*



## Sunday, February 21 continued...

7:30 - 8:30 a.m.

### TOXIC AND HAZARDOUS SUBSTANCES LITIGATION Epigenetics in the Courtroom

Epigenetics has the potential to change the face of toxic tort litigation. Epigenetics is the encoding of information on or over DNA by environmental factors. This encoding can change gene expression and some studies suggest those changes may be passed on for generations after initial exposure. The field of epigenetics is changing the way we look at causation and the lasting effects of environmental exposures on subsequent generations—and it is already creeping into expert analysis. This panel of distinguished speakers will give a primer on epigenetics, the legal challenges to its use, and how science may soon change the way causation is established in many cases.

**Speakers:** *Joshua D. Lee, Schiff Hardin LLP, Chicago, IL USA; Gary Marchant, Ph.D, Sandra Day O'Connor College of Law at Arizona State University, Tempe, AZ USA; Howard Sandler, MD, Sandler Occupational Medicine Associates, Inc., Melville, NY USA*

8:45 - 10:15 a.m.

### Opening Session



10:15 - 11:30 a.m.

### Foundation Forum Speaker Shiza Shahid

THE FOUNDATION FORUM SPEAKER IS SPONSORED BY THE FOUNDATION OF THE IADC.

For a description on Shiza Shahid and the Forum, see page 2.

## Monday, February 22

7:30 - 8:30 a.m.

### CONSTRUCTION LAW AND LITIGATION COMMITTEE BUSINESS MEETING



7:30 - 8:30 a.m.

### BUSINESS LITIGATION/INTELLECTUAL PROPERTY/ INTERNATIONAL

### Around the World: How Litigation Strategy Is Going Global

No longer are litigation matters strictly domestic affairs. We are seeing an unprecedented increase in the amount of litigation, both personal injury and commercial, that is planned and executed internationally. On the personal injury side, significant class action litigation that occurs in the United States is often coordinated with similar class action litigation that occurs in Canada. On the commercial litigation side, because commerce is now global, commercial litigation is playing out on a global battlefield. Intellectual property litigation, in particular, is being planned and coordinated globally with businesses selecting jurisdictions for litigation in an attempt to develop precedent that can be used in other parts of the world. This experienced panel will discuss this trend and how it will impact litigation and business practices going forward.

**Speakers:** *Kurt B. Gerstner, Lee International IP & Law Group, Seoul, Korea; Jeffrey A. Pade, Paul Hastings LLP, Washington, DC USA; Steven Rosenhek, Fasken Martineau DuMoulin LLP, Toronto, ON Canada*

7:30 - 8:30 a.m.

### DRUG, DEVICE AND BIOTECHNOLOGY

### Avoiding the Pitfalls of Privilege: A Guide in Pharmaceutical Litigation

This program discusses the attacks made by the plaintiffs bar on privilege claims in mass tort litigation in the age of email/e-docs and the strategies to assist your client in preparing for and defending against these attacks. Exemplar documents and scenarios are presented and discussed to educate in-house and outside counsel about how to implement “best practices” in advance of litigation and educate your business clients about how to maintain and preserve privileges.

**Speakers:** *Andrew W. Boczkowski, GlaxoSmithKline, Philadelphia, PA USA; Todd P. Davis, King & Spalding LLP, Atlanta, GA USA; Robert K. Woo, Jr., King & Spalding LLP, Atlanta, GA USA*



7:30 - 8:30 a.m.

## PRODUCT LIABILITY

### The Plaintiffs Bar AIEG: What You Don't Know Could Hurt You

This program reveals information about the Attorneys Information Exchange Group (AIEG), aka the “Plaintiffs Bar Top Secret Databank of Defendants’ Documents.” The AIEG is a secretive group affiliated with the American Association for Justice (AAJ). Most defense lawyers and claims professionals have probably never heard of it. (Indeed, one of the speakers had been practicing law for nearly 20 years before he heard about the AIEG, and its main office is located a mile from his house!)

The AIEG touts itself as an “information sharing repository” for plaintiffs’ lawyers. What we are learning is that plaintiffs’ lawyers go to great lengths to make sure they can share your (and your insureds’ and clients’) documents with all other AAJ and AIEG members. This dynamic program will address the following:

- What is the AIEG?
- How does it operate?
- Actions taken by plaintiffs’ counsel to keep your documents after litigation is over.
- Improper sharing of confidential documents by plaintiffs’ lawyers via the AIEG.
- Strategies you can employ to keep your company’s/insured’s/client’s information from going to the AIEG and being recycled and used in new lawsuits.

**Speakers:** R. Bruce Barze, Jr., Balch & Bingham LLP, Birmingham, AL USA; Marguerite E. Zinz, Thacker Martinsek LPA, Toledo, OH USA

7:30 - 8:30 a.m.

## PROFESSIONAL LIABILITY

### Ethical and Malpractice Pitfalls in Electronic Discovery

*\*This program is eligible for ethics credit.*

Participate in an interactive discussion on the attorneys’ fiduciary duty of competency in representing a client’s electronic discovery technology. Learn about the numerous legal malpractice pitfalls in such representation. The program will address American Bar Association and state ethical rules governing an attorney’s obligation to apply new technologies to client data. You will learn how to reduce client costs by appropriate use of experts and appropriate technology-vendors; hear about courts and disciplinary authorities; and learn how to deal with attorneys who “missed the message.”

**Speakers:** Barry G. Kaiman, Lewis Brisbois Bisgaard & Smith LLP, Los Angeles, CA USA; David M. Siesko, Arch Insurance, Jersey City, NJ USA

8:45 - 10:15 a.m.

### Advising Family Companies Around the World: Survival of the Fittest?

*Sponsored by the International Committee*

The success of family companies turns much of modern business teaching and corporate governance scholarship on its head. The triumph of the public company is limited to Europe and North America. The economies of most of the rest of the world—developed as well as emerging—continue to be dominated by family-focused businesses that control a wide range of companies, not just individual firms.

Family companies are much more than just half-formed public companies. They are a category of companies in their own right. They have unique advantages in the form of long-term thinking and concentrated ownership. They have unique disadvantages in the form of succession problems and family feuds. And they have unique ways of dealing with these problems. Given the sheer number of family companies of all sizes and their economic importance, they deserve a lot more attention, in particular from two groups of people: business professionals and theorists of the firm. Learn how different the operation of a family-owned business is from the publicly-owned businesses and how that affects the job of the inside and outside legal counsel.

**Moderator:** Emmanuèle Lutfalla, SCP Soulie & Coste-Floret, Paris, France

**Speakers:** William J. Butler, McDermott Will & Emery LLP, Chicago, IL USA; John Linders, Banning N.V., ‘s-Hertogenbosch, Netherlands; Barbara E. Matthews, The Hagerty Group, LLC, Traverse City, MI USA; Jennifer Pendergast, The Family Business Consulting Group, Chicago, IL USA



## Monday, February 22 continued...

8:45 - 10:15 a.m.

**Data Breach: Principles, Practice, and the Public Interest**  
*Sponsored by the Business Litigation Committee, In-House and Law Firm Management Committee, and Technology Committee*

**SPONSORED BY DISCOVIA**

Almost weekly there is a new headline about a major data breach and the legal fallout from it. Part one of this two-part program will explain basic principles of data privacy; the challenges presented by the segmented federal regulatory structure together with 47 state breach notification burdens; and the need of organizations to self-assess breach exposure, implement reasonable privacy policies, insure vendor compliance, and follow available standards (NIST, ISO 2700, PCI). This program will culminate in an overview of FTC regulatory authority and expectations by that agency's Assistant Director in the Division of Privacy and Identity Protection.

**Moderator:** *Stephanie M. Rippee, Watkins & Eager PLLC, Jackson, MS USA*

**Speakers:** *Martin J. Healy, Sedgwick LLP, Newark, NJ USA; Bruce H. Raymond, Raymond Law Group LLC, Glastonbury, CT USA; Nithan Sannappa, Federal Trade Commission, San Francisco, CA USA; Jo Anne Schwendinger, Deere and Company, Moline, IL USA*

10:30 a.m. - 12:00 p.m.

**CLE/GENERAL INTEREST**

**Taking Action: Responding to Depression and Substance Abuse in the Legal Profession**

*\*This program is eligible for Substance Abuse credit.*

There is a prevalence of depression and substance abuse in the legal profession. Some studies estimate that of the one million lawyers in this country, approximately one fourth of them suffer from some sort of depression. Reports from lawyer assistance programs indicate that 50-75 percent of lawyer discipline cases nationwide involve chemical dependency. However, there are a number of ways lawyers can seek help for problems and even avoid them altogether, achieving a balanced life and fulfillment in the practice of law.

This presentation is for lawyers at all stages of practice and will highlight and address the genesis of some sobering facts. It will also focus on ways lawyers can achieve balance in their practice by discussing the twelve steps toward fulfillment in the practice of law set forth in the book, *Lawyer Life: Finding a Life and a Higher Calling in the Practice of Law*, written by the Honorable Carl Horn, III, a former U.S. Magistrate Judge for the Western District of North Carolina and published by the ABA in 2003.

**Speaker:** *C. Stuart Mauney, Gallivan, White & Boyd, P.A., Greenville, SC USA*

12:15 - 1:45 p.m.

**GENERAL INTEREST**

**IADC Talks: Social Justice**

*Sponsored by the In-House and Law Firm Management Committee and Social Justice Pro Bono Committee*

"Pro bono" comes from the Latin pro bono publico, meaning "for the public good." This panel of distinguished IADC members will discuss their meaningful experiences of engaging in the legal profession's highest calling—ensuring access to justice for the poor and disenfranchised. The presenters will discuss the challenges that they faced in providing pro bono services and the impact their contributions made in the lives of others.

*Light lunch offerings will be available for attendees.*

**Moderator:** *Craig A. Thompson, Venable LLP, Baltimore, MD USA*

**Speakers:** *Daniela Karollus-Bruner, CMS Reich-Rohrwig Hainz Rechtsanwälte GmbH, Vienna, Austria; Matthew D. Keenan, Shook, Hardy & Bacon L.L.P., Kansas City, MO USA; Michael W. Magner, Jones Walker LLP, New Orleans, LA USA; Christine A. Marlewski, Gray Robinson P.A., Tampa, FL USA; Robert F. Redmond, Jr., McGuireWoods LLP, Richmond, VA USA*

5:15 - 6:15 p.m.

**INTERNATIONAL COMMITTEE BUSINESS MEETING**

## Tuesday, February 23

7:30 - 8:30 a.m.

**BUSINESS LITIGATION/CORPORATE COUNSEL**

**Dealing with Difficult Clients or How to Respectfully Bite the Hand that Feeds You**

*\*This program is eligible for ethics credit.*

As a follow-up to the 2015 IADC Midyear Meeting presentation on dealing with difficult lawyers, come get sage advice and tips on how to deal with, manage, and improve upon relationships with difficult clients (fellow IADC members excluded).

**Speakers:** *Cynthia P. Arends, OneBeacon Insurance Group, Minnetonka, MN USA; J. Calhoun Watson, Sowell Gray Stepp & Laffitte, LLC, Columbia, SC USA*





7:30 - 8:30 a.m.

#### INSURANCE AND REINSURANCE

### The Number of Occurrences Dilemma

The issue of whether a claim or series of claims involves one or more than one “occurrence” (and, if so, how many) is a question that is at the forefront of coverage litigation. The issue is particularly complicated as it has produced battles not only between policyholders and insurers, but among insurers as well. The financial stakes for how this issue is resolved can be enormous. This panel will explore recent developments in this area, including related concepts of “batching” and “occurrence integration” and will offer practical advice and tips for outside and in-house counsel. This is an issue that cuts across virtually all lines of insurance and categories of claims and one that both coverage counsel and the defense attorney handling the claim need to understand in order to protect the interests of their client in complicated claims situations.

**Speakers:** John T. Harding, Jr., Lewis, Brisbois, Bisgaard & Smith LLP, Boston, MA USA; Sonia Valdes, MedMarc Insurance Group, Washington, DC USA; Bryan M. Weiss, Murchison & Cumming LLP, Los Angeles, CA USA

DIRECTLY FOLLOWING THIS CLE PROGRAM THERE WILL BE A SHORT INSURANCE AND REINSURANCE COMMITTEE BUSINESS MEETING. PLEASE STAY IF YOU ARE ABLE.

7:30 - 8:30 a.m.

#### MEDICAL DEFENSE AND HEALTH LAW/PRODUCT LIABILITY

### Defending Against the Inflated Life Care Plan

This program will focus on how to defend against the overinflated life care plan in catastrophic injury cases. The program will consider defense strategies and areas of attack on most life care plans. Alternative methods and trial strategy related to diminishing damages will also be discussed.

**Speakers:** Thomas J. Hurney, Jackson Kelly PLLC, Charleston, WV USA; Stuart P. Miller, Mitchell, Williams, Selig, Gates & Woodyard, PLLC, Little Rock, AR USA

DIRECTLY FOLLOWING THIS CLE PROGRAM THERE WILL BE A SHORT MEDICAL DEFENSE AND HEALTH LAW COMMITTEE BUSINESS MEETING. PLEASE STAY IF YOU ARE ABLE.

7:30 - 8:30 a.m.

#### SOCIAL JUSTICE PRO BONO

### A Primer: Representing Refugees in Immigration Court

Learn how you can actively participate in the IADC’s new social justice initiative from Robert Redmond, Chair of the IADC’s Social Justice Pro Bono Committee. Listen as he will present a primer on representing refugees in immigration court. Topics will include initial client interview, initial pleading stage, developing a persuasive relief request, marshalling evidence for relief, presenting witnesses, presenting documents, and handling post-trial matters.

**Speaker:** Robert F. Redmond, Jr., McGuireWoods LLP, Richmond, VA USA

7:30 - 8:30 a.m.

#### WHITE COLLAR DEFENSE AND INVESTIGATION

### Knock Knock. Who’s There? It’s the Feds and We Have a Search Warrant for All of Your Company’s Computers and Records

This entertaining panel will provide the do’s, the don’ts, and the best game plan available to practitioners in terms of how to respond when federal or state agents show up at their corporate client’s offices with a request for interview, a grand jury subpoena, or a search warrant. This program will also focus on how to handle similar situations when they occur overseas. This is an extremely sensitive and important issue that both in-house and outside counsel are likely to face at some point in their careers. Be prepared!

**Moderator:** Douglas S. Brooks, Libby Hoopes, P.C., Boston, MA USA

**Speakers:** Peggy Kubicz Hall, Greene Espel P.L.L.P., Minneapolis, MN USA; Michael W. Magner, Jones Walker LLP, New Orleans, LA USA; Alfred R. Paliani, Quality King Distributors, Inc. / QK Healthcare, Inc., New York, NY USA



## Tuesday, February 23 continued...

8:45 - 10:15 a.m.

### **What Practitioners Need to Know About the New Scope of Discovery and How to Avoid Spoliation Sanctions**

*Sponsored by the Drug, Device and Biotechnology Committee*

Important amendments to the Federal Rules of Civil Procedure have been approved by the Supreme Court and are effective December 1, 2015. The new rules are designed to improve the discovery process, including establishing that discovery must be proportional to the claims and defenses in the action. Additionally, the amendments for the first time set reasonable criteria for the imposition of spoliation sanctions. Lawsuits are increasingly becoming litigations about litigations, particularly when the merits are lacking. The Actos litigation, for example, has been a case study in different applications of different rules with similar fact patterns leading to widely varying results.

The new rules are the culmination of years of work by many invested in improving process and results on this ever changing and challenging subject. Inside and outside counsel must now keep the momentum going and continue to work for appropriate interpretation and implementation of these rules, so as to make sure the hard work translates into new and impactful results. The reality is while the new rules create an opportunity for a much more rational and predictable approach to discovery and preservation issues, those that prefer the old approach will be working to maintain the status quo and are already coordinating to blunt the intended impact of the new rules. There remains significant room for interpretation in several important areas of the new rules, and how those areas are interpreted will dictate whether spoliation sanctions continue to be an ever present and common threat to corporations.

In this program, IADC members will learn where the battlegrounds are in the new rules and how to prepare themselves and their clients to prevail on these issues.

**Moderator:** *Jeffrey R. Lilly, Gordon & Rees, LLP, Austin, TX USA*

**Speakers:** *Alex Dahl, Lawyers for Civil Justice, Washington, DC USA; Robert L. Levy, Exxon Mobil Corporation, Houston, TX USA*

8:45 - 10:15 a.m.

### **The Power of Brands**

*Sponsored by the In-House and Law Firm Management Committee*

This thought-provoking presentation will challenge the listener to understand and ultimately unlock the mystery of why powerful brands achieve their sustainable impact. The presentation will first address company and product brands and then will apply the same principals to law firms and individual lawyers. The principals taught will enable companies, law firms, and individuals to refresh and re-energize their brand in a unique, “human-focused” manner.

**Speakers:** *Katherine E. Hollar, Chief Marketing Officer, Shook, Hardy & Bacon LLP, Kansas City, MO USA; George Schell, Chief Marketing Counsel, Coca-Cola, Atlanta, GA USA*

10:30 a.m. - 12:00 p.m.

### **CLE/GENERAL INTEREST**

### **Memory Power for Lawyers (and All Those With Too Much On Their Minds)**

*Sponsored by the Medical Defense and Health Law Committee*

Whether it's knowing the names and details of clients or acquaintances, a room full of people, passwords, or numbers, key facts from negotiations or closing arguments, the surest path to credibility, influence, and success is training yourself to have a remarkable memory.

In this unforgettable session, explore the science of MemoryPower and master Scott Bornstein's system for unfailing recall for names and faces. Sharpen personal and professional performance, impact important relationships, and most importantly, manage the information overload in your life.

**Speaker:** *Scott Bornstein, MemoryPower, Mission Viejo, CA USA*



2:00 - 3:15 p.m.

DIVERSITY/INSURANCE AND REINSURANCE/INSURANCE  
EXECUTIVES/PROFESSIONAL LIABILITY

## Understanding the Concept of Implicit Bias and Its Impact on the Practice of Law

*\*This program is eligible for ethics credit or Elimination of Bias credit in applicable states.*

Traditional thought held that discrimination was always the result of conscious and deliberate conduct. Current research, however, shows that we all make choices that discriminate against one group and in favor of another without even realizing we are doing it and against our own conscious belief that we are being unbiased in our decision making, even though we do not possess any explicit prejudice or ill will. This program will explore the concept of implicit bias, and discuss the correlation between bias and how we process information as well as its sources. It will also offer insight into how the courts are dealing with this concept and the ethical implications involved.

**Moderator:** Timothy J. Gephart, Minnesota Lawyers Mutual Insurance, Minneapolis, MN USA

**Speakers:** Pamela W. Carter, Carter Law Group, LLC, New Orleans, LA USA; Jay Barry Harris, Fineman Krekstein & Harris, P.C., Philadelphia, PA USA; Anne Johnson, Minnesota Lawyers Mutual Insurance, Minneapolis, MN USA

3:30 - 5:00 p.m.

## Human Trafficking in the 21st Century: Conceptual Frameworks and Responses

*Sponsored by the Diversity Committee*

News feeds and media programming are replete with reports of human trafficking – sexual and labor exploitation of men, women, and girls. The conventional depiction is of an organized transnational criminal activity which can be successfully addressed through law enforcement initiatives. This presentation challenges this dominant perception, advocating understanding of the deeper underlying inequities of laws and policies that permit and foster human trafficking. The presentation will discuss the dominant perceptions and approaches, then offer a more comprehensive, structured understanding of and response to human trafficking.

**Speaker:** Dean Karen E. Bravo, Indiana University School of Law, Indianapolis, IN USA

*\*This program will be followed by an International Committee Wine Tasting Reception at 5:00 p.m. The reception is a ticketed event which requires registration; see page 12 for more details. Registration is not required if attending the CLE session only.*

# Wednesday, February 24

7:30 - 8:30 a.m.

ALTERNATIVE DISPUTE RESOLUTION COMMITTEE BUSINESS MEETING

7:30 - 8:30 a.m.

BUSINESS LITIGATION

## Daimler v. Bauman: Are You Defending Lawsuits Where You Don't Belong?

The U.S. Supreme Court's decision in *Daimler v. Bauman*, 134 S.Ct. 746 (2014) just celebrated its second birthday. This session explains the case, discusses its potentially groundbreaking effects limiting the reach of personal jurisdiction (especially for corporations doing business nationally), examines subsequent circuit court cases that have construed it, and asks whether we should laud or lament the case.

**Speakers:** Christopher D. Brown, Beasley, Demos & Brown, LLC, Miami, FL USA; Peter M. Donnelly, Ingersoll-Rand Company, Davidson, NC USA; Phillip S. Sykes, Butler Snow LLP, Ridgeland, MS USA

7:30 - 8:30 a.m.

CLASS ACTIONS AND MULTI-PARTY LITIGATION

## The Telephone Consumer Protection Act, Rule 23, and the FCC Declaratory Ruling and Order: The Approaching Tsunami of Litigation for Business-to-Customer Calls

Commissioner Ajit Pai in his dissent to the FCC's July 10, 2015 Declaratory Ruling and Order announced that, "This Order will make abuse of the TCPA much, much easier. And the primary beneficiaries will be trial lawyers, not the American public." The TCPA's authorization of up to \$1,500 per call, text message, or fax sent in violation of its prohibitions created a minor flood of litigation. The FCC's Ruling and Order has the potential to turn the flood into a tsunami. Join the discussion of recent developments in Rule 23 and TCPA case law that threatens enormous liability to all businesses that use telephone, emails, and texts to communicate with customers.

**Speakers:** Sara Anne Ford, Lightfoot, Franklin & White, L.L.C., Birmingham, AL USA; Frank A. Hirsch, Jr., Alston & Bird LLP, Raleigh, NC USA



## Wednesday, February 24 continued...

7:30 - 8:30 a.m.

### **DRUG, DEVICE AND BIOTECHNOLOGY/INTERNATIONAL** **The EMA is in Your Case, Now What? What You Need to Know about the EMA and How to Effectively Use Foreign Regulatory Decisions to Your Advantage**

This program will highlight the major differences for prescription drug approval between the FDA and the EU's EMA. Understanding the differences are important for product liability trial lawyers because EMA risk assessments are increasingly admitted into evidence in U.S. trials.

**Speakers:** *Bruce R. Parker, Venable LLP, Baltimore, MD USA; Hein van den Bos, Hogan Lovells, Amsterdam, Netherlands*

7:30 - 8:30 a.m.

### **ENVIRONMENTAL AND ENERGY LAW/TOXIC AND HAZARDOUS SUBSTANCES LITIGATION** **Use of State "Public Trust" Actions and Citizen Suits to Address Environmental Trends**

PCE litigation in California; recovering MTBE costs in New York, Vermont, and Pennsylvania; "home rule" to halt hydraulic fracturing; Dutch citizens climate change lawsuit against its government – come hear an interactive discussion regarding the increased use by states, citizens, and environmental groups of nuisance law, local government rules, and/or "public trust" doctrine to address environmental issues and strategies for combating this emerging litigation trend.

**Speakers:** *Candace A. Blydenburgh, McGuireWoods LLP, Richmond, VA USA; Andrew Thompson, Smith, Gambrell & Russell, Atlanta, GA USA*

8:45 - 10:15 a.m.

### **After the Data Breach: A Hands On "Table Top" Demonstration About How to Counsel Clients in Crisis**

*Sponsored by the Business Litigation Committee, In-House and Law Firm Management Committee, and Technology Committee*

**\*This program is eligible for ethics credit.**

This program is the follow-up session to "Data Breach: Principles, Practice, and the Public Interest." We will work through a mock scenario distilled from thousands of actual breaches, with decision points for participants at every crucial juncture: incomplete and murky facts, red herrings, and the pressure of responding under a time crunch. Key takeaways include: (i) the critical role played by outside legal counsel in breach preparedness, under the cloak of the attorney-client privilege, and in breach response; (ii) practical guidance on counsel's role in formulating an incident response plan; and (iii) real world insights into the most common mistakes organizations make when investigating and responding to a suspected data breach.

**Moderator:** *Stephanie M. Rippee, Watkins & Eager, Jackson, MS USA*

**Speakers:** *Serge Jorgensen, The Sylint Group, Sarasota, FL USA; Paul Nihkinson, Beazley, San Francisco, CA USA; Peter J. Pizzi, Connell Foley LLP, New York, NY USA; William R. Sampson, Shook, Hardy & Bacon L.L.P., Kansas City, MO USA*

8:45 - 10:15 a.m.

### **Becoming an Agent of Change—Promoting Gender Equality in the Legal Workplace**

*Sponsored by the Corporate Counsel Committee and Diversity Committee*

It has been pointed out that 83 percent of law firm equity partnerships are held by men. This session will educate us on what these leaders can and must do to proactively mentor, promote, and fairly compensate women who aspire to leadership in a law firm or in-house counsel environment. We will learn how men at all levels of the legal workforce and in all legal organizations can become agents of change, joining with women to build a more open and diverse legal profession.

**Moderator:** *Bonnie Mayfield, Dykema Gossett PLLC, Bloomfield Hills, MI USA*

**Speaker:** *Ida Abbott, Ida Abbott Consulting, San Francisco, CA USA*



10:30 a.m. - 12:00 p.m.

## **Start to Finish: Jury Research from Pre-Discovery to Post-Trial**

*Sponsored by the Drug, Device and Biotechnology Committee and Trial Techniques and Tactics Committee*

This panel discussion will focus on jury research from the start of litigation, through trial, to post-trial interviews. With the start of litigation, the program will cover how pre-discovery focus groups and venue surveys can shape and guide the discovery process. It will also outline the differences between a focus group and a mock jury. In regards to the trial, the panel will cover tactics for using a shadow jury, including the various risks and limitations, procedural considerations, disclosure to the other side and judge, “blind” shadow juries, and deliberations. Our experts will relay experiences on recent use of a shadow jury, such as the number of jurors, how they were selected and managed; the feedback used by the trial team, and how consistent the shadow jury was to the real jury. Finally they will examine post-trial interviews, including ethical considerations and will survey the general standards that various courts apply when determining whether extraneous evidence warrants a new trial. There are an increasing number of cases in this area, including appellate cases, and the audience will gain specific insight into a recent evidentiary hearing where two jurors were called to testify when it was learned that a juror conducted Google research during deliberations.

**Moderator:** *Lyn P. Pruitt, Mitchell Williams, Little Rock, AR USA*

**Speakers:** *Chris Dominic, Tsongas Litigation Consulting, Inc., Portland, OR USA; G. Brian Jackson, Butler Snow LLP, Nashville, TN USA; Bradley Keller, Byrnes Keller Cromwell LLP, Seattle, WA USA*



**Thank you to our CLE Committee and our Midyear Meeting CLE Steering Committee for their tremendous work. Their effort and dedication has resulted in fantastic programming that you will find relevant, timely, and enjoyable.**



## **CLE Committee**

### **CHAIR**

*Deborah G. Cole, Chicago, IL USA*

### **MEMBERS**

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John T. Lay, Jr., Columbia, SC USA  
Emmanuèle Lutfalla, Paris, France  
Wendy D. May, Dallas, TX USA  
Joseph E. O'Neil, Philadelphia, PA USA  
Mary-Christine “M.C.” Sungaila, Costa Mesa, CA USA  
Tamela J. White, Huntington, WV USA*



## **Midyear Meeting CLE Steering Committee**

### **CHAIR**

*Mollie Benedict, Los Angeles, CA USA*

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