

## SUNDAY, FEBRUARY 19

7:30 - 8:30 a.m.

### TRANSPORTATION COMMITTEE BUSINESS MEETING

7:30 - 8:30 a.m.

### Construction Law and Litigation/Insurance and Reinsurance

### 50 STATE SURVEY ON PREJUDGMENT INTEREST IN CONSTRUCTION DEFECT CASES

Benjamin Franklin is famously quoted as saying that “[a]n investment in knowledge pays the best interest.” Most of us would be hard pressed to disagree with this truth. We are, after all, members of a profession that demands continual learning. We all know that more often than not a prevailing party will be entitled to prejudgment interest on a judgment. Yet, prejudgment interest is usually no more than an afterthought once a verdict is reached. This presentation will concentrate on the varying ways prejudgment interest is applied, in the construction context, across the United States.

**Speakers:** *Thomas M. Buckley, Hedrick Gardner, Raleigh, NC USA; Robert V. Fitzsimmons, Rumberger, Kirk & Caldwell, Miami, FL USA; Maritza Peña, Marlow, Adler, Abrams, Newman & Lewis, Miami, FL USA*

7:30 - 8:30 a.m.

### Diversity/Employment Law

### EMPLOYMENT AND LABOR LAW - YEAR IN REVIEW

This informative panel discussion will address recent court decisions, board opinions, and rulings related to the DOL’s amended overtime rules and how they are being implemented; recent Circuit Court decisions and EEOC opinions regarding LGBT rights; as well as decisions and opinions surrounding NLRB decisions related to joint and shared employers. Attendees will obtain useful information on expected trends in the employment and labor law arena to provide to clients and their firms.

**Speakers:** *Jeffrey M. Beemer, Dickinson Wright, PLLC, Nashville, TN USA; Molly Hughes Cherry, Nexsen Pruet, LLC, Charleston, SC USA*

7:30 - 8:30 a.m.

### Drug, Device and Biotechnology/Toxic and Hazardous Substances Litigation/Trial Techniques and Tactics

### EPIDEMIOLOGY - WHAT TRIAL ATTORNEYS AND JURORS REALLY NEED TO KNOW

This presentation will help IADC members quickly read, interpret, and challenge epidemiology studies, as well as how to use them offensively. It covers the types of studies, the parameters by which epidemiology studies are analyzed, how epidemiology studies are used/excluded in courts, and practical pointers for attacking/supporting an epidemiology study. Attendees will learn the rule of whether a relative risk/odds ratio cannot be statistically significant (in layman’s terms) and, more importantly, how to apply that rule. You will also learn why all epidemiology studies have some degree of bias and the reason why epidemiology studies, standing alone, cannot prove causation.

**Speakers:** *Chad R. Hutchinson, Butler Snow, Ridgeland, MS USA; Lisa A. Warren, Johnson & Johnson, New Brunswick, NJ USA*

7:30 - 8:30 a.m.

### Professional Liability

### ETHICAL AND LEGAL MALPRACTICE PITFALLS CONFRONTING THE DEFENSE ATTORNEY IN DEALING WITH OUTSIDE COUNSEL LITIGATION MANAGEMENT GUIDELINES

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

This interactive program will address the challenges confronting outside counsel in meeting his or her ethical obligations to the client while adhering to litigation guidelines. Cost containment provisions can threaten to compromise vigorous representation of a client’s interest and, therefore, expose outside counsel to a myriad of practical problems.

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





## SUNDAY, FEBRUARY 19 CONTINUED

8:45 - 10:15 a.m.

### OPENING SESSION



10:15 - 11:30 a.m.

### FOUNDATION FORUM SPEAKER - ARI SHAPIRO

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

For a description on Ari Shapiro and the Forum, see page 2.

## MONDAY, FEBRUARY 20

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7:30 - 8:30 a.m.

### Alternative Dispute Resolution/Corporate Counsel/International Arbitration

### HELP ME HELP YOU HAVE A SUCCESSFUL ARBITRATION

A panel of experienced domestic and international practitioners will discuss the best practices to lay the groundwork for, participate in, and conclude a successful arbitration proceeding. Topics to be covered include:

- pre-hearing activities, including the initial status conference, keeping to a schedule, the scope of discovery, the ability of arbitrators to compel discovery from third parties, effective use (or non-use) of dispositive motions, and pre-hearing briefing; and
- presenting your case at an arbitral hearing, including utilization of opening and closing, use of experts, proof of damages, and post-hearing briefs.

**Speakers:** Joseph M. Goldberg, Sentry Insurance, Edina, MN USA; Edward M. Mullins, Astigarraga Davis, Miami, FL USA; Dr. Dorothee Ruckteschler, CMS Hasche Sigle, Stuttgart, Germany; Eric W. Wiechmann, McCarter & English, LLP, Hartford, CT USA



7:30 - 8:30 a.m.

### Diversity

### PULSE: AN INSIDE LOOK AND LESSONS LEARNED

PULSE: An inside look and lessons learned. This presentation will be led by IADC member, Orlando resident, and national LGBT advocate Larry Smith who will offer a close up and personal perspective on the worst mass shooting in U.S. history. We will take a look at the history behind, and reaction to, the shooting and how it affected the discussion of LGBT issues in America. Finally, we will address some of the challenges ahead on the national and global scene.

**Speakers:** Mayanne Downs, GrayRobinson, PA, Orlando, FL USA; Larry D. Smith, Southern Trial Counsel, PLC, Orlando, FL USA

7:30 - 8:30 a.m.

### In-House and Law Firm Management ARE YOU PREPARED? WEATHERING A DISASTER

Business interruption comes in various formats and there are many causes for them. Whether it is weather, fire, natural disaster, terrorism, cyber theft, or other issues, this panel will be discussing situations that each have experienced, along with steps taken both before and after the interruption to facilitate a recovery and prevent interruptions in the future.

**Moderator:** Paul M. Fires, Weber Gallagher Simpson Stapleton Fires & Newby, LLP, Philadelphia, PA USA

**Speakers:** William Garcia, Liberty Mutual Group, Seattle, WA USA; Quentin F. Urquhart, Jr., Irwin Fritchie Urquhart & Moore LLC, New Orleans, LA USA





7:30 - 8:30 a.m.

## Product Liability/Toxic and Hazardous Substances Litigation

### “ANY EXPOSURE” CAUSATION TESTIMONY - UNDERCUTTING THE PLAINTIFFS’ ASBESTOS/TOXIC TORT CAUSATION ENGINE

The presenters will update participants on the current status of law and strategic issues involving the *any* or *cumulative exposure* theory used heavily in asbestos litigation and extending now into other types of cases. The Ninth and Sixth Circuits and Supreme Courts in Georgia, Texas, Pennsylvania, and Virginia have ruled on the admissibility of this testimony, and similar appeals are pending in New York and Pennsylvania and before the Seventh Circuit. Plaintiffs’ experts have modified their approach to avoid dismissals, and the panelists will discuss how to address the more recent approach and court rulings.

**Speakers:** William L. Anderson, Crowell & Moring LLP, Washington, DC USA; Mark A. Roberts, M.D., Ph.D., Exponent, Chicago, IL USA

8:45 - 10:15 a.m.

## CLE/General Interest

### THE SUPREME COURT IN 2017

*Sponsored by Appellate Practice Committee*

It has been one year since the Supreme Court lost an icon, Justice Antonin Scalia. Election year politics derailed his proposed replacement, and now a new President will try to fill the void. Meanwhile, the Court continues to rule on a steady stream of cases that affect every American. Kannon Shanmugam, a former Scalia clerk who has argued before the Justices more than a dozen times; Danielle Spinelli, a former Stephen Breyer clerk who has appeared before the Court; and members of the media who follow the Court closely will discuss with each other and the audience the legacy of Justice Scalia, the new direction the court is likely to take, and the Court’s recent (and future) rulings on important issues before it.

**Moderator:** Mary-Christine “MC” Sungaila, Haynes and Boone, LLP, Costa Mesa, CA USA

**Speakers:** Tom Goldstein, SCOTUSblog, Washington, DC USA; David G. Savage, LA Times, Washington, DC USA; Kannon Shanmugam, Williams & Connolly LLP, Washington, DC USA; Danielle Spinelli, Wilmer Cutler Pickering Hale and Dorr, Washington, DC USA



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

## THE NEW FRONTIER: THE RISE OF THIRD PARTY LITIGATION FINANCING

*Sponsored by International Committee*

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

This program will discuss third party litigation financing – what it is, how it started, and why it’s on the rise. The use of third party litigation financing is steadily increasing to fund various types of litigation from mass tort cases to large scale royalty disputes in oil and gas matters to intellectual property disputes. Panelists will discuss the court opinions that address such issues as whether these arrangements are discoverable, what information about them is discoverable, and whether they are appropriate under the ethics rules governing attorney conduct. In addition, panelists will also discuss the positive and negative impact of third party financing on litigation and will provide practical insights for dealing with these financial arrangements. Finally, the panel will address some of the current reform efforts related to third party financing arrangements. For example, the U.S. Chamber of Commerce Institute for Legal Reform is currently advocating for a revision to the Federal Rules of Civil Procedure that would require disclosure of funding arrangements to the court and litigants.

**Moderator:** Janelle L. Davis, Thompson & Knight LLP, Dallas, TX USA

**Speakers:** John Beisner, Skadden Arps Slate Meagher & Flom LLP, Washington, DC USA; Sylvie Gallage-Alwis, Hogan Lovells (Paris) LLP, Paris, France; Lynda Shely, The Shely Firm, PC, Scottsdale, AZ USA; Lisa A. Warren, Johnson & Johnson, New Brunswick, NJ USA



## MONDAY, FEBRUARY 20 CONTINUED

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

### FIGHTING BACK: SUCCESSFUL TRIAL STRATEGIES TO COMBAT OVERREACHING GOVERNMENT ENFORCEMENT ACTIONS AND “WHISTLEBLOWER” SUITS

*Sponsored by Corporate Counsel Committee and White Collar Defense and Investigation Committee*

In recent years, government enforcement actions and False Claims Act suits have been on the rise. The stakes in these cases are high with companies in a wide range of industries at risk of criminal and punitive civil liability. These actions can encompass a broad range of legal theories and can be brought by the Department of Justice and government agencies as well as individual whistleblowers, who can share in up to thirty percent of any recovery. Because of the potential risk of criminal conviction, exclusion from participation in government programs, or large monetary damages awards, many of these cases are resolved short of trial regardless of the merits of the government's case. Several companies, however, have recently taken a stand and successfully tried these cases to verdict. Hear from our panel of lawyers whose clients fought back when faced with criminal indictment and False Claims Act suits. They will offer successful tips and strategies for trial as well as suggestions for compliance efforts.

**Moderator:** *Kimberly B. Martin, Bradley Arant Boult Cummings LLP, Huntsville, AL USA*

**Speakers:** *Wendy W. Feinstein, Eckert Seamans Cherin & Mellott LLC, Pittsburgh, PA USA; Connie Lewis Lensing, FedEx, Memphis, TN USA*

12:15 - 1:45 p.m.

### CLE/General Interest

### BREXIT - ARE THEY IN OR OUT? WILL IT ERECT OR TAKE DOWN WALLS?

*Sponsored by Diversity Committee, Employment Law Committee, and International Committee*

The Brexit vote in the UK has initiated vigorous debate around the world. This panel will discuss the implications and consequences of Brexit inside and outside Britain with an emphasis on human rights. It will explore the effects, if any, Brexit has had on nationalist movements; migration, including implications for employers regarding work papers/documentation; and on minority rights. Will there be more exits from the EU? Will the Council of Europe and its Court of Human Rights be affected? Will these impacts ripple beyond Europe?

**Moderator:** *Daniel I. Reisler, Reisler Franklin LLP, Toronto, ON Canada*

**Speakers:** *Dr. Tawhida Ahmed, Associate Dean, The City Law School, London, England; Anthony G. Brown, European Parliament, Brussels, Belgium; William J. Perry, Carter Perry Bailey LLP, London, England*

*\*Light lunch offerings will be available for attendees.*

4:00 - 5:00 p.m.

### INTERNATIONAL COMMITTEE BUSINESS MEETING

## TUESDAY, FEBRUARY 21

7:30 - 8:30 a.m.

### INSURANCE AND REINSURANCE COMMITTEE BUSINESS MEETING

7:30 - 8:30 a.m.

### Environmental and Energy Law/Toxic and Hazardous Substances Litigation

### LEAD IN DRINKING WATER ISSUES IN THE 21ST CENTURY

In 2014, the Lead in Drinking Water Act was enacted which amended Section 1417 of the Safe Drinking Water Act and dictated much lower lead content for certain systems and components. A year and a half later, a number of cities, including Flint, Michigan, were reported to have unsafe levels of lead in drinking water. EPA and state regulatory agencies have been accused of failing to adequately perform their oversight duties. State officials are accused of complacency. This seminar will take a look at legal issues currently surrounding lead in drinking water - the various class action lawsuits filed against cities like Flint and Chicago, the causation arguments being asserted by the parties, the rise of “no safe level” theory that appears to be the premise of new drinking water standards, and new laws being enacted to “make water more safe.” The panel members will include an expert, an in-house counsel, and an outside counsel.

**Speakers:** *Kay Barnes Baxter, Cosmich, Simmons & Brown, PLLC, New Orleans, LA USA; Benjamin J. Heckman, RHP Risk Management, Inc., Carlisle, PA USA; Joseph F. Speelman, Petro-Logistics S.A., The Woodlands, TX USA*







7:30 - 8:30 a.m.

## Intellectual Property/Product Liability

### THE SPORTING GOODS INDUSTRY: WHAT KEEPS IN-HOUSE COUNSEL UP AT NIGHT?

**SPONSORED BY DISCOVIA**

By all indications, we love sports. We spend more than \$35 billion every year on sports-related merchandise. This program will address efforts by leaders in the sporting goods industry to protect their own innovations, prevent infringement of their intellectual property, and defend against product liability suits in a dangerous litigation climate. Our panelists will discuss the challenges they are facing, the trends they are seeing, along with the thrill of their recent victories and the agony of their recent defeats.

**Moderators:** *E. Danielle Thompson Williams, Fish & Richardson, Atlanta, GA USA; Sandra J. Wunderlich, Stinson Leonard Street LLP, St. Louis, MO USA*

**Speakers:** *Lynne Fuller-Andrews, Hanesbrands, Inc., Winston Salem, NC USA; Samuel Gasowski, Easton Baseball/Softball, Inc., Los Angeles, CA USA; Michael J. Kline, Srixon/Cleveland Golf/XXIO, Huntington Beach, CA USA*

7:30 - 8:30 a.m.

## Social Justice Pro Bono

### REPRESENTING THE JUVENILE IN IMMIGRATION COURT: YOU CAN DO THIS

As described in a recent *New York Times* article, there is an acute crisis of non-represented juveniles appearing in immigration court. The statistics are compelling. Between October 2004 and June 2016, more than half the children who did not have lawyers were deported. Only one in 10 children who had legal representation were sent back. This program will empower our attorneys and offer training to take these cases.

**Speakers:** *Matthew D. Keenan, Shook, Hardy & Bacon L.L.P., Kansas City, MO USA; Robert F. Redmond, Jr., McGuireWoods LLP, Richmond, VA USA; Larry Levi Sandigo, Florence Immigrant & Refugee Rights Project, Phoenix, AZ USA*

7:30 - 8:30 a.m.

## Technology/Trial Techniques and Tactics

### INTERACTIVE DEPOSITION TECHNOLOGY FOR LAWYERS WHO WANT TO WIN

**\*This program is eligible for technology credit in Florida.**

In a continuation of the 2016 Midyear Meeting presentation “Technology Strategies for Lawyers Who Want to Win,” we will demonstrate in hands-on fashion the latest in interactive deposition technology and strategies using the *Wilson v. Roe* (IADC Trial Academy) fact pattern. Techniques demonstrated will include witness annotations on monitors captured live; the use of live switching devices during the deposition; moving witnesses into the corner of the screen and expand the document/annotations; positioning (video-in-video) by which eye witness testimony can be displayed against party testimony; and the use of a Tablet Stage, allowing your iPad to work as an Elmo and/or a presentation device with annotation tools.

**Speakers:** *Jack Delany, Delany McBride, Philadelphia, PA USA; Kendall Harrison, Godfrey & Kahn, Madison, WI USA; Thomas G. Oakes, Thomas G. Oakes Associates, Cherry Hill, NJ USA; Brian A. O’Connell, Tucker, Saltzman, Dyer & O’Connell, LLP, Boston, MA USA*







## TUESDAY, FEBRUARY 21 CONTINUED

8:45 - 10:15 a.m.

### POTENTIAL LIABILITY ARISING FROM MASS EPIDEMICS

*Sponsored by Employment Law Committee, International Committee, Medical Defense and Health Law Committee, and Transportation Committee*

Mass epidemics like MERS, Ebola, and Zika have the potential to create enormous liability for medical providers, transportation providers, and employers, both in the U.S. and internationally. The focus of this program will be on recognition of this potential liability as well as the development of strategies to minimize any liability. The first part of the program will feature a health care administrator/medical doctor who will discuss methods utilized by medical providers/governments to recognize and minimize exposure to highly contagious diseases. The remainder of the program will feature a panel of defense lawyers who will discuss the liability issues faced by medical providers, transportation providers, and employers in the event of a mass epidemic. The panel will also discuss defense strategies to minimize exposure in these settings.

**Moderator:** Kurt B. Gerstner, Lee International IP & Law Group, Seoul, Korea

**Speakers:** Jay M. Ezelle, Starnes Davis Florie LLP, Birmingham, AL USA; Jacqueline J. Harding, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, Los Angeles, CA USA; Dr. Ali Raja, Massachusetts General Hospital/Harvard Medical School, Boston, MA USA; Henry S. Wehrmann, Farrow-Gillespie & Heath LLP, Dallas, TX USA

8:45 - 10:15 a.m.

### ARE YOU WILLING TO PERSONALLY INSURE YOUR CLIENT'S DATA SECURITY? THE UNINTENDED CONSEQUENCE OF STANDARD SERVICE PROVIDER INDEMNITY AGREEMENTS

*Sponsored by Business Litigation Committee, Corporate Counsel Committee, In-House and Law Firm Management Committee, Insurance and Reinsurance Committee, and Professional Liability Committee*

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

Everyone has been talking about the risks and perils of cyber-attacks and the failure to adequately secure data, but what happens next? Who is responsible for the damages associated with this risk? Well, if you are not careful, it might be you – and not because you did anything wrong! In today's legal marketplace, corporate clients are increasingly requesting their service providers, including their lawyers, to enter detailed service provider agreements which include broad indemnity clauses that could create liability for conduct that may not be covered by your firm's malpractice coverage – particularly when one considers the potential pitfalls of a data security breach of non-public personal information of consumers ("NPI"). Many law firms and the companies they represent have been entering these agreements without considering the full range of negative outcomes for the firm, its partners, and most notably, the corporate client itself. This program will highlight the liability issues created by employing standard service provider agreements to address the provision of legal services with a focus on data security issues. The panel will identify the issues presented by the use of broad indemnity clauses, the corporate goals of employing such indemnity clauses, the risks associated with the use of such clauses for both the law firm and corporate client, and, most importantly, provide practical advice that will allow lawyers and their clients to manage this risk and obtain the desired benefits without impairing the client-lawyer relationship or your ability to obtain new work.

**Moderator:** Michael A. Airdo, Kopon Airdo, LLC, Chicago, IL USA

**Speakers:** Scott Burns, ALAS, Inc., Chicago, IL USA; Daniel Oseran, Senior Director and Counsel, Global Privacy, Business Ethics & Compliance for eBay, Scottsdale, AZ USA; Steven Puiszis, Hinshaw & Culbertson LLP, Chicago, IL USA





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

## General Interest JASON CARTER

Jason Carter is the grandson of former U.S. President Jimmy Carter and in 2015, he succeeded his grandfather as the Chair of The Carter Center Board of Trustees. The Carter Center was founded in 1982 by President Carter and his wife, Rosalynn, in partnership with Emory University to advance peace and health worldwide. A non-governmental organization, The Center has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production. Mr. Carter will discuss the mission of The Carter Center, its many successes, and its future plans to continue improving the lives of people around the world.

Jason Carter is a shareholder at Bondurant, Mixson & Elmore in Atlanta, Georgia. He represents clients in high stakes trial and appellate business litigation. He has a strong commitment to global public service. Mr. Carter served in the Georgia State Senate and was the 2014 Democratic Nominee for Governor of Georgia. He served in the United States Peace Corps as a volunteer in Lochiel, South Africa.

**Speaker:** Jason Carter, The Carter Center, Atlanta, GA USA

### The IADC's Insurance Oasis Event

Scottsdale is home to a number of insurance companies, making it a perfect venue for insurance programming. The IADC's Insurance Oasis Event offers a unique opportunity for IADC members, in-house counsel, and insurance professionals to gather in an intimate conference environment to address hot issues and trending topics in the industry. The event will feature two 45-minute continuing education programs presented by IADC members and clients. Following the event, attendees will enjoy a cocktail reception. If you are an IADC member, this programming is included in your Midyear Meeting registration. Registration is complimentary for insurance professionals and in-house counsel not attending the Midyear Meeting.

3:30 - 5:00 p.m.

## INSURANCE OASIS: HOT TAKES ON TRENDING TOPICS

*Sponsored by Insurance and Reinsurance Committee*

### What Has Eight Corners But Isn't a Cube? Issues Arising From the Duty to Defend

What are the issues that arise most frequently in defending insureds in third party claims? This program will cover them, including the "eight corners rule" and its exceptions, defending

under a reservation of rights, withdrawal from the defense, the insurer's rights/obligations concerning declaratory relief, retention of independent counsel, trigger theories and overlapping coverage, refusal of defense by the insured, and waiver and coverage by estoppel.

**Speakers:** Robin Donoian, Nationwide Insurance, Scottsdale, AZ USA; Michael A. Hamilton, Goldberg Segalla LLP, Philadelphia, PA, USA; Kathleen J. Maus, Butler Weihmuller Katz Craig LLP, Tallahassee, FL USA

### Bad Faith Update: Trends, Tips, and (Sand) Traps

Cases alleging that an insurer acted in "bad faith" in its handling of a claim continue to be filed at an alarming rate by policyholders and tort claimants standing in their "spiked" shoes. This panel will address the challenges that these claims pose for insurers and their counsel, including issues such as new liability theories, bad faith set-ups, extra-contractual damages without a finding of "bad faith," statutory developments, and emerging damages issues. In addition to exploring the latest trends based upon recent court decisions, the session will offer practical tips and guidance for insurance professionals and their counsel that will help them avoid the "bunkers" and stay "on course."

**Speakers:** Paul Dwight, Managing Counsel, Commercial Litigation, Nationwide Insurance, Scottsdale, AZ USA; John T. Harding, Lewis Brisbois Bisgaard & Smith LLP, Boston, MA USA; Sharon Donaldson Stuart, Christian & Small LLP, Birmingham, AL USA

## WEDNESDAY, FEBRUARY 22

7:30 - 8:30 a.m.

### Appellate Practice/Business Litigation

## AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE: HOW TO PREPARE YOUR COMMERCIAL LITIGATION LAWSUIT FROM ANSWER THROUGH DISCOVERY AND TO VERDICT FOR A WINNING APPELLATE RECORD

**SPONSORED BY COMMERCIAL SURETY BOND AGENCY**

If you have waited until the eve of trial to think strategically about laying the foundation for a successful appeal of your client's business dispute, you likely have missed multiple opportunities to tip the scales in your client's favor. In this entertaining session, leading commercial litigators and appellate specialists will demonstrate how a winning appellate record begins from the initial pleadings and not at the courthouse steps. This protective awareness continues through discovery, motion practice, and trial. IADC members will learn to think strategically to tackle the unique challenges that commercial litigation brings while avoiding the common



## WEDNESDAY, FEBRUARY 22 CONTINUED

mistakes that keep appellate lawyers awake at night.

**Moderator:** Mary-Christine “MC” Sungaila, Haynes and Boone, LLP, Costa Mesa, CA USA

**Speakers:** Lee M. Hollis, Lightfoot, Franklin & White, L.L.C., Birmingham, AL USA; Sonia Escobio O’Donnell, Carlton Fields Jordan Burt, Miami, FL USA; Dawn T. Sugihara, Goodsill Anderson Quinn & Stifel, Honolulu, HI USA

7:30 - 8:30 a.m.

### International Arbitration/International TAILORING PROCEEDINGS IN ARBITRATION CLAUSES - LIMITS AND PITFALLS?

International arbitration proceedings are sometimes criticized for being slow and costly. This panel will discuss the possibilities, limits, and risks for accelerating, simplifying, and reducing cost through the structuring of the proceeding in the arbitration clause.

**Speakers:** Sunil Abraham, Cecil Abraham & Partners, Kuala Lumpur, Malaysia; Peter Heckel, Hengeler Mueller, Frankfurt, Germany; Enric Picanyol, Cuatrecasas, Gonçalves Pereira, Barcelona, Spain; Jodok Wicki, CMS Von Erlach Poncet Ltd., Zurich, Switzerland

7:30 - 8:30 a.m.

### Medical Defense and Health Law THE IMPACT OF ELECTRONIC MEDICAL RECORDS AND METADATA ON LITIGATION

**SPONSORED BY MRC**

The transition of medical records from paper to electronic has had a significant impact upon litigation, especially in the defense of medical liability cases. One major impact is the availability of metadata. This program will discuss discoverability and use of electronic medical records and metadata in litigation. The first part of the program will generally discuss issues associated with the transition to electronic medical records, including issues relating to metadata. The remainder of the program will consist of defense strategies for dealing with issues created by electronic medical records and metadata.

**Moderator:** Jane W. Duke, Mitchell, Williams, Selig, Gates & Woodyard PLLC, Little Rock, AR USA

**Speakers:** Mark D. Hansen, Heyl, Royster, Voelker & Allen, Peoria, IL USA; R. Douglas Vaughn, Deutsch Kerrigan, LLP, Gulfport, MS USA; Gretchen Watson, President and CEO, MRC, Houston, TX USA

7:30 - 8:30 a.m.

### Professional Liability/Trial Techniques and Tactics CAN I DO THAT? THE ETHICS OF WITNESS PREPARATION

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

This presentation uses television and film to demonstrate the ethical dilemmas encountered in preparing witnesses to give testimony at deposition or trial. Judge Miller has served as a judge in civil and criminal courts for more than 23 years and was in private practice for 11 years. He has served as a professor of trial tactics and professional responsibility at the IU McKinney School of Law in Indianapolis for more than 25 years and is a frequent lecturer and speaker on various issues involving trial tactics and professional responsibility. He has presented to many organizations including various state and local bar associations, DRI, the ABA, and others, both nationally and internationally. His presentation is not only informative, but entertaining.

**Speaker:** Honorable Gary L. Miller, Marion County Superior Court, Indianapolis, IN USA

8:45 - 10:15 a.m.

### NOT AGING GRACEFULLY: LIABILITY AND POLICY IMPLICATIONS OF AMERICA’S DETERIORATING INFRASTRUCTURE

*Sponsored by Construction Law and Litigation Committee, Environmental and Energy Law Committee, Product Liability Committee, Transportation Committee, and Toxic and Hazardous Substances Litigation Committee*

Whether it is lead contamination of drinking water in Flint, Michigan, a collapsed bridge in Minneapolis, a failed levee in New Orleans, or the next tragedy around the corner, the rapid deterioration of America’s infrastructure continues to produce sensational headlines, class action litigation, and difficult policy choices for state and local governments. This panel will address a range of issues that will be useful to IADC members. These issues are expected to include: 1) an overview of the breadth of the aging infrastructure problem and industries affected (e.g., transportation, energy, construction, insurance) including a review of the case law on infrastructure deterioration suits; 2) an examination of the factors that contributed to the Flint, Michigan lead contamination problem; 3) the difficult choices facing state and local governments in dealing with infrastructure issues and public safety concerns in a fiscally responsible manner; 4) opportunities and challenges for the construction industry in the remediation of aging infrastructure; 5) who has the right to sue, liability exposure faced by design professionals, insurance coverage exclusions and limitations, and recoverable damages; and 6) who is likely to pick up the price tag - product manufacturers, insurers, municipal, or state governments?





**Moderator:** *Raymond G. Mullady, Jr., Nelson Mullins Riley & Scarborough LLP, Washington, DC USA*

**Speakers:** *Michael J. Hurley, Berkley Surety Group, Morristown, NJ USA; Pamela McGovern, Aust Légal Inc., Montreal, QC Canada; Bo Mills, President-Elect, American Public Works Association, Washington, DC USA; Allen W. Nelson, Former Executive Vice President at Crawford & Company, Atlanta, GA USA*

8:45 - 10:15 a.m.

## MOCK JURIES: NOT JUST FOR TRIAL OUTCOMES

*Sponsored by Product Liability Committee*

### SPONSORED BY TRIAL BEHAVIOR CONSULTING

Mock juries have been used as a tool just prior to trial to determine the strengths/weaknesses of your case and to help clients engage in realistic settlement negotiations. But their use can also help determine:

- The credibility of witnesses;
- The use of deposition testimony versus live testimony of certain witnesses;
- The strength of documentary evidence;
- Additional questions that remained unanswered in the jurors' minds and that need to be answered at trial;
- Damages; and
- The importance and phrasing of jury instructions.

You will hear from defense trial lawyers and a jury consultant about how to use mock juries to prepare your evidence, your arguments, your witnesses, and manage your clients' expectations.

**Moderator:** *Jessalyn H. Zeigler, Bass Berry & Sims PLC, Nashville, TN USA*

**Speakers:** *Aref Jabbour, Trial Behavior Consulting, San Francisco, CA USA; Wendy D. May, Hartline Dacus Barger Dreyer LLP, Dallas, TX USA; S. Gordon McKee, Blake, Cassels & Graydon, LLP, Toronto, ON Canada*

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

## IADC TALKS: THE DEFENSE LAWYER IN 2025 - LEGAL TRENDS THAT WILL IMPACT YOUR PRACTICE, AS TOLD THROUGH PECHA KUCHA

*Sponsored by Construction Law and Litigation Committee, Diversity Committee, Drug, Device and Biotechnology Committee, In-House and Law Firm Management Committee, Product Liability Committee, and Trial Techniques and Tactics Committee*

A diverse and distinguished panel will address various topics that will inevitably impact the practices of defense attorneys

over the next 10 years. The panel will present using the pecha kucha format. Pecha kucha is Japanese for "chit chat" and in this presentation style, a speaker presents for seven to eight minutes and uses PowerPoint slides, but the slides cannot contain any words and can only contain images to convey their messages. The panel will address technology assisted review (TAR), "Watson" artificial intelligence for legal research, diversity in the courtroom, proportionality under the Federal Rules, plaintiff advertising/solicitation in the digital age, and how in-house legal departments are changing.

**Speakers:** *Sonia Chen Arnold, Eli Lilly and Company, Indianapolis, IN USA; Joseph D. Cohen, Porter Hedges LLP, Houston, TX USA; Emily G. Coughlin, Coughlin Betke, LLP, Boston, MA USA; Michelle M. Fujimoto, Shook, Hardy & Bacon, LLP, Irvine, CA USA; James F. Rogers, Nelson Mullins Riley & Scarborough LLP, Columbia, SC USA; Junior Sirivar, McCarthy Tetrault LLP, Toronto, ON Canada*

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

Christopher S. Berdy, Birmingham, AL USA

### MEMBERS

Brigid M. Carpenter, Nashville, TN USA  
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