

Litigation Management: Getting Great Results

April 15-16, 2016

AGENDA and COURSE DESCRIPTION

Friday, April 15, 2016

8:00a - 8:10a Opening Remarks and Welcome

8:10a - 8:30a **PREPARING YOUR EXPERT TO WIN A JURY TRIAL**

Jerry Glas -- Deutsch Kerrigan (New Orleans, LA)

Direct examination of an expert is supposed to be "like dancing," but it is as dangerous as wrestling with Antaeus of Greek mythology. One wrong answer or move can bring you to your knees. Trial lawyer Jerry Glas discusses proven techniques that all in-house counsel should know before their next "dance" with an expert.

8:30a - 8:50a **ADVOCACY IS A UNIVERSALLY APPLICABLE SKILL**

Liz Huntley -- Lightfoot Franklin & White (Birmingham, AL)

Whether your lawyer is advocating for early childhood education or a commercial client's cause, the same skills of organization, synthesis, client communication, theme development, story-telling and persuasion come into play. Trial lawyer Liz Huntley tells her compelling story of personal challenge and success.

8:50a - 9:10a **THE RISK DOMINANCE OF I.P. LITIGATION**

Steve Fogg -- Corr Cronin (Seattle, WA)

In-house counsel recognize the large risks posed by IP cases require the narrative and thematic approaches of traditional defense trial lawyers coupled with sufficient technical support to assure presentation accuracy. Traditional trial lawyers see cases through the eyes of the jury. With IP cases and verdicts exploding, a winning combination requires contributions from both sides of the brain. Trial lawyer Steven Fogg explains how to look through the science to find and then tell a winning story, using traditional trial techniques, including demonstrative evidence, themes, and compelling animations.

9:10a - 9:50a

PANEL: EXECUTIVES IN THE HOT SEAT - PREPARING CORPORATE REPRESENTATIVES FOR DEPOSITION

Moderator: Jessie Zeigler -- Bass Berry & Sims (Nashville, TN)

The 30(b)(6) deposition of a company witness (sometimes of the company's CEO) focuses C-suite attention on in-house litigation managers. Apex depositions can have far-reaching impact, especially if they go poorly. Our panel of in-house and outside counsel will discuss their experience and advice for helping company representatives to make great impressions in the face of bad documents, serious injuries, and dangerous conditions.

9:50a - 10:20a

Refreshment and Coffee Break

10:20a - 10:40a

FRAUD SCHEMES: WHEN, NOT IF

David Spector -- Akerman (West Palm Beach, FL)

Systemic and organized fraud costs billions annually. Increased vulnerability and exposure to fraud requires a focus on strategic prevention, proactive detection and investigation, affirmative litigation, and exhaustive recovery efforts. Trial lawyer David Spector will address in-house counsel's responsibilities for fraud detection, investigation, prosecution and prevention.

10:40a - 11:00a

TAKING ADVANTAGE OF LESSER-KNOWN RULES OF CIVIL PROCEDURE AND EVIDENCE

David Schultz -- Maslon (Minneapolis, MN)

Congresswoman Barbara Jordan said, "If you're going to play the game properly you'd better know every rule." Some of the lesser-known rules of civil procedure and evidence can give your client a decided advantage. Trial lawyer David Schultz will explore some of the gems hidden in our federal rules allowing judges to take judicial notice; excluding relevant evidence for prejudice; allowing lay witnesses to give opinion testimony; providing exceptions to the rule against hearsay; attacking the credibility of a witness giving hearsay evidence; allowing summary evidence; and using the deposition of an adverse party's witness.

11:00a - 11:20a

USING CONSULTANTS ON LEGAL ISSUES

Brett Johnson -- Snell & Wilmer (Phoenix, AZ)

Seeking to save money, tap special expertise, or deal with compliance requirements, companies sometimes turn to consulting firms for advice. But there can be legal implications when consultants provide unsolicited opinions about the law. Trial lawyer Brett Johnson will discuss best practices when using consultants, and provide some real world examples of significant harm to companies.

11:20p - 11:40p

TAKING THE BAD FAITH DETOUR

Lyndon Sommer -- Sandberg Phoenix & von Gontard (St. Louis, MO)

Plaintiff's attorneys are increasingly advancing bad faith claims in high damage cases and offering "rollover" agreements to insureds. These tactics complicate the defense of the underlying case. Counsel's evaluation of liability and damages are put under a microscope. Trial attorney Lyndon Sommer explains key steps to navigate the bad faith minefield.

Saturday, April 16, 2016

8:00a – 8:10a Welcome Back Remarks from the Seminar Co-Chairs

8:10a – 8:30a **LITIGATION IN CANADA - CLASS ACTIONS AND OTHER THINGS U.S. IN-HOUSE COUNSEL SHOULD KNOW**

Jill Lawrie -- Blake Cassels & Graydon (Canada)

Litigation in Canada often blows into the U.S. like an Alberta Clipper. In-house counsel for multi-national companies should be aware of what's going on north of the border where there is a relatively low threshold for class certification. Trial lawyer Jill Lawrie will discuss that, the types of matters that get certified, trends in claims and novel causes of action being pursued, differences in discovery procedure (documents, interrogatories, depositions) and other interesting aspects of litigating in Canada.

8:30a- 8:50a **AVOIDING FORUM SHOPPING – DAIMLER CHRYSLER V. BAUMAN AND PROGENY**

Joshua Metcalf -- Forman Watkins & Krutz (Jackson, MS)

Defendants face forum-shopping plaintiffs stretching to establish sufficient contacts to justify their choice of venue. SCOTUS set forth protections against abuse in Daimler Chrysler v. Bauman. In-house counsel need to be alert to those minimum requirements for in personam jurisdiction. Trial lawyer Joshua Metcalf will discuss Daimler and its progeny, and he'll take a close look at which connections to the forum state are sufficiently tenuous to cause courts to bounce the case.

8:50a- 9:10a **TURNING THE TABLES ON PLAINTIFF TRICKS**

Tom Cullen -- Goodell DeVries Leech & Dann (Baltimore, MD)

Plaintiffs improperly stage discovery, conduct discovery about discovery, pursue sanctions as a tactic, take painful company depositions - all in an effort to sully the credibility of defendants and their counsel before we ever get to trial. Trial lawyer Tom Cullen presents practice tips to address plaintiffs' reptile theory tactics and drive positive decision making from judges and jurors.

9:10a- 9:50a **PANEL: THE AGE OF WHISTLEBLOWER AND GOVERNMENT INVESTIGATIONS**

Moderator: Le Dolan -- Nixon Peabody (Washington, DC)

Practice steps to protect your company. Whistleblowing against companies under federal and state laws is on the rise and requires careful attention and active management. Allegations of wrongdoing not properly documented, investigated and managed can result in substantial financial and reputational harm. This panel of seasoned in-house counsel and experienced government investigation/white collar defense lawyers will discuss the best practices for managing through these complex and costly situations.

9:50a - 10:20a Refreshment and Coffee Break

10:20a - 10:40a

**DELAWARE BUSINESS LITIGATION: THE NATIONAL
PRACTICE IN A LOCAL COURT**

Chris Viceconte -- Gibbons (Wilmington, DE)

More than 60% of the nation's Fortune 500 companies are incorporated in Delaware. Every in-house litigation manager should have at least a passing familiarity with litigation in Delaware's Court of Chancery and the Complex Commercial Litigation Division of the Superior Court, including special procedures for technology disputes, arbitration and mediation. Trial lawyer Chris Viceconte will explain how the courts are organized, what relief they can render and how to get great results for your clients in Delaware.

10:40a - 11:00a

**RECENT FRCP CHANGES AFFORD OPPORTUNITIES FOR COST
SAVING**

Tony Rospert -- Thompson Hine (Cleveland, OH)

New litigation cost-control opportunities are emerging with recent changes in the FRCP that consider proportionality (Rule 26(b)) and revise preservation obligations (Rule 37(e)) in discovery. Trial lawyer Tony Rospert reveals his methods of aggressively limiting discovery and minimizing costs by using the new amendments.

11:00a - 11:05a

Closing Remarks before Break-Out Sessions

11:05a - 12:05p

BREAK-OUT SESSIONS ON LITIGATION MANAGEMENT