

The National Forum for Environmental & Toxic Tort Issues

17th Annual Conference

September 29 - October 1, 2010 Union League Club Chicago, Illinois

Program Agenda

Wednesday, September 29, 2010

6:00 – 8:00 p.m. **Networking Reception**

Thursday, September 30, 2010

7:00 – 8:00 a.m. **Continental Breakfast**

8:00 – 8:15 a.m. **Welcome and Overview**

8:15 – 9:15 a.m. **Pollution 2010: What's New in the Courts**

Michael F. Aylward
Morrison Mahoney LLP
Boston, Massachusetts

Amy S. Parker
Swiss Re America Holding Corp.
Overland Park, Kansas

David M. Governo
Governo Law Firm LLC
Boston, Massachusetts

9:15 – 10:00 a.m. **Creative Investigation and Discovery in
Toxic Tort Claims and Litigation**

- Investigation Beyond the Basics - Use of Investigators, the Internet and Social Networking Groups
- Know Your Client and Improve Your Defense
- Creative Ways to "Work the System"

Mitchell L. Lathrop
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
New York, New York

Martin D. Barrie, J.D., Ph.D.
Walland, Tennessee

Judge Bernetta D. Bush (Ret.)
JAMS
Chicago, Illinois

Judge Stephen Schiller (Ret.)
JAMS
Chicago, Illinois

Jeff Kichaven
Mediator
Los Angeles, California

10:00 – 10:15 a.m. **Break**

10:15 – 11:00 a.m. **Experts in Toxic and Environmental Claims**

- Preparing Your Expert Witness: From Selection to Trial
- Why Do You Need All Those Experts? Knowing the Fundamentals

11:00 a.m. – Noon **Insurance Allocation Panel Discussion:
The View from the Bench and Beyond**

Noon – 1:00 p.m. **Lunch**

Thursday, September 30, 2010 (cont'd)

- 1:00 – 1:45 p.m. **Asbestos Litigation Update / Trends:
Trials and Tribulations**
- National Claim Filing Trends
 - Litigation Trends Relating to Plaintiffs' Focus, Defendants and Verdicts
 - Significant Litigation Developments, Including MDL 875, Case Law, Pending Legal Issues, Bankruptcies and Trusts, and Rand Report
- George F. Fitzpatrick*
Swanson, Martin & Bell, LLP
Chicago, Illinois
- 1:45 – 2:45 p.m. **New Claims on the Horizon:
The Aftermath of the Deepwater Horizon Spill**
- What is the Aftermath of the Spill that May Result in Claims?
 - Who Will Be the Target Defendants?
 - What Damages Can Be Expected?
 - What are the Insurance Implications of the Spill?
 - Panel Discussion from the Viewpoint of the Plaintiff, Defense and Expert
- James M. Garner*
Sher Garner Cahill Richter Klein & Hilbert, L.L.C.
New Orleans, Louisiana
- Marc S. Gaffrey*
Hoagland, Longo, Moran, Dunst, and Doukas, LLP
New Brunswick, New Jersey
- Robert W. Bowcock*
Integrated Resource Management, LLC
Claremont, California
- 2:45 – 3:00 p.m. **Break**
- 3:00 – 3:45 p.m. **Reactive Drywall - Will Complaints Spread
Beyond Chinese Drywall in Southeastern States?**
- Damages with Reactive Drywall
 - Why are Some Drywalls Reactive?
 - Domestic Drywall vs. Chinese Drywall?
 - Importance of the Reactive Drywall Timeline
 - Can Health Issues Be Far Behind?
- Philip R. Watters*
Rimkus Consulting Group
Houston, Texas
- 3:45 – 4:15 p.m. **When Workers' Compensation Exclusivity for
Toxic Exposures is Not Exclusive:
Claims Against the Employer**
- Typical Exposure Cases and Law
 - Defenses
 - State and Federal Court Review of Controlling Law
 - Insurance Implications
- Richard S. Ranieri*
Weber Gallagher Simpson Stapleton Fires & Newby LLP
Murray Hill, New Jersey
- 4:15 – 4:45 p.m. **Natural Resource Damages Under CERCLA:
The Emergence of "Loss of Navigation Services"
Claims**
- Overview of Natural Resources Damages
 - Traditional Claims vs. Emergence of "Loss of Navigation Services" Claims
- James P. Murphy & Katherine L. Felton*
Lybeck Murphy, LLP
Mercer Island, Washington

Friday, October 1, 2010

7:00 – 8:00 a.m. **Continental Breakfast**

8:00 – 8:30 a.m.

Climate Change

- Overview of Legislation
- Endangerment Ruling - Foundation for Green House Gas Regulation
- Statutory, Public Nuisance and Other Recovery Theories
- Insurance Coverage Implications

Michael J. Naughton

Wilson Elser Moskowitz Edelman & Dicker LLP
Newark, New Jersey

8:30 – 9:00 a.m.

Food-Borne Illness

- Infectious Disease
- Additives and Contaminants
- Demonizing Food: Obesity, Diabetes, Early Puberty and Other Societal Ills Laid at the Feet of Food

David A. Oliver

Vorys, Sater, Seymour and Pease LLP
Houston, Texas

9:00 – 10:00 a.m.

Ethical Jeopardy in Environmental/Toxic Litigation and Ethical Dilemmas Caused by New Technology

Peter L. Garchie

Lewis Brisbois Bisgaard & Smith LLP
San Diego, California

10:00 – 10:15 a.m.

Break

10:15 – 10:45 a.m.

Medicare as Secondary Payer

- Update on Recent Developments
- Importance of the MSP
- *U.S. v. Stricker* Case
- Responses to Developing Issues from the Courts, Defendants, Plaintiffs and Insurers
- October 1, 2010 Reporting of Cases

Philip R. Matthews

Duane Morris LLP
San Francisco, California

10:45 – 11:15 a.m.

Tort Reform: The New Battlefronts in High Stakes Civil Litigation

Phil S. Goldberg

Shook, Hardy & Bacon L.L.P.
Washington, D.C.

11:15 – 11:45 a.m.

Business Meeting

This is a Business Casual Event

Business Casual Attire or better is permitted throughout the clubhouse with the exception of specific events for which a higher mode of dress (such as business Dress Attire, Black Tie or White Tie) is specified.

Business Casual Attire is defined as, for men, a collared shirt (including turtleneck) and slacks (without jacket or necktie); for women, **Business Casual Attire** includes slacks or skirt with a blouse or sweater.

The following are specifically prohibited (**except on floors 10 and above and when checking in or out of the Club guestrooms**):

Overalls, tee-shirts, trading jackets, cut-offs, sweatshirts, denim jackets and any clothing that is tattered or contains inappropriate messages.

Blue jeans are not permitted in the clubhouse except on Saturdays before 6:00 p.m., on Sundays and on Holidays.

If you must enter or exit the Club in Athletic Attire, please use the Athletic Entrance, located on Federal Street just south of the revolving-door entrance.

To leave the Club, take the elevator to the first floor and follow the signs marked "Athletic Exit."