



**OUR FIFTH ANNUAL
LITIGATION MANAGEMENT SUPERCOURSE AGENDA**



Friday, August 11, 2006

in 18 pithy fast-moving and entertaining 20-minute segments, plus
working lunch-breakout sessions, and including
1 hour of cutting-edge ethics issues
featuring TRIAL LAWYERS
at

The House of the Association of the Bar of the City of New York*
42 West 44th Street
New York, NY
8:30 a.m. to 4:45 p.m.
(includes breakfast and a working lunch)

Up to 7 General CLE Hours including 1.0 Hours of Ethics Hours
(CLE Approval for the State of New York is currently pending)

NOTICE: This is not your everyday CLE course; these are not your everyday litigators. These are trial lawyers. You won't hear endless streams of case citations, theory, academic wonder and picking apart of appellate decisions. You will hear a lot of practical advice that you can use immediately.

And come prepared to have some fun. These are trial lawyers. You've probably heard about them.

You may even know a trial lawyer. Trial lawyers are the jet fighter pilots of the legal profession.

You'd know that if you ever called upon one with only weeks before trial and asked him/her to save your company/case/job.

They say what's on their minds and tell it like it is. They are result oriented, eschew bean counting and paper mill litigation, and live to try cases. They are tough hombres. They present, argue and persuade for a living, day in and day out. Many first-chair more trials every year than most litigators see in a lifetime.

Hear a decidedly fresh perspective and approach to CLE, and experience a terrific set of CLE presentations.

Take Friday, August 11, and join us for our highly-regarded LITIGATION MANAGEMENT SUPERCOURSE, now entering its 14th year. General counsel, bring your entire in-house litigation management department -- the program and lunch are on us.

FRIDAY, AUGUST 11, 2006	
8:30a - 9:00a	Continental Breakfast
9:00a	<p>OPENING REMARKS</p> <p>Michael O'Donnell -- 2006 Chair <i>Wheeler Trigg Kennedy</i> Denver, CO</p>



Mike O'Donnell is Chairman of Wheeler Trigg Kennedy. His national litigation practice focuses on complex civil litigation involving product liability, professional liability, toxic tort, class action and commercial matters. He has acted as national or regional counsel for a number of Fortune 100 companies and has appeared in state and federal courts in over 25 states. He is currently national trial counsel for Boston Scientific, CNA, Guidant, and Johnson & Johnson. He is a Fellow of The American College of Trial Lawyers, listed in Best Lawyers in America, named a Colorado Superlawyer, and been voted Denver Business Journal Best of the Bar finalist in more litigation categories than any other Colorado lawyer.

9:05a

WELCOME FROM SEMINAR CHAIRS



Scott O'Connell -- 2006 Seminar Chair
Nixon Peabody
Boston, MA

Scott defends financial institutions in class actions, lender liability, breach of contract, breach of fiduciary duty, breach of good faith, unfair and deceptive trade practices, fraud, misrepresentation, fair debt collection practices, and civil RICO matters. He also represents public and private companies in all manner of governance, ownership and securities disputes.



Mark Miller -- 2006 Seminar Chair
Wildman Harrold
Chicago, IL

Trial and appellate attorney Mark Miller brings his experience in dealership termination, class action, construction litigation, medical device and other product litigation to the program.

9:10a

Joe Ortego

[Nixon Peabody](#)
New York, NY



CASE ASSESSMENT, TRIAL STRATEGIES VARYING BY JURISDICTION

What sells in Peoria won't sell in the Bronx – why you need to rethink your case with the jurisdiction and jury pool in mind.

Case assessment and valuation as a function of jurisdiction. Strategies for loss minimization in difficult jurisdictions. Hidden factors to consider in your assessment (e.g., David and Goliath, xenophobia, racism, retaliation, witness selection, experts, defenses that won't fly because of local sociological factors).

9:30a

NON-COMPETITION PROVISIONS FOR THE GLOBAL ECONOMY

Linda
Woolf

[Goodell DeVries
Leech & Dann](#)
Baltimore, MD



Why Traditional Standards for Reasonableness No Longer Work
Mobile workforces and reasonable restrictions for companies with a global customer-base. Linda Woolf, who recently used an ex parte TRO motion to settle a non-competition issue, will focus on protections for technology-based companies. How non-solicitation and confidentiality provisions can work to protect trade secrets and confidential information.

9:50a

Phil
Scaletta

[Ice Miller](#)
Indianapolis, IN



LESSONS LEARNED IN COMMERCIAL LITIGATION
Experience-Based Changes Made Now Can Improve Future Experience
Bite-sized practice pointers for in-house counsel's risk management, risk avoidance and risk transfer efforts. Discussion will cover contractual risk transfer, document creation, management and retention issues; evidence preservation issues; employee awareness and e-mail techniques with examples from FEMA's experience in last year's Hurricane Katrina disaster; using defensive document preparation methods; words, phrases and terms that can turn a result; contractual risk transfer pointers using insurance, contract and indemnification provisions.

10:10a

Sam
Santo

[Lowenstein Sandler](#)
Roseland, NJ



E-DISCOVERY: BURDENSOME, RISKY, EXPENSIVE AND UNAVOIDABLE
A summary of where we've been, and where we're going. Plus, practice pointers to help you navigate the mine field. A look at the new rules (and committee notes) governing discovery of electronically stored information which have been transmitted to Congress and are scheduled to be effective December 1, 2006 (unless Congress enacts legislation to reject, modify, or defer the amendments).

10:30a

Kevin
Zielke

[Dykema](#)
Detroit, MI



MDL AND CAFA: CONSISTENT OR INCOMPATIBLE?
MDL panels can transfer appropriate cases from multiple jurisdictions to a single transferee court for pre-trial coordination. Similarly, the new Class Action Fairness Act of 2005 attempts to consolidate and reform class actions. Using these tools to best advantage is a challenge. A practical framework for sorting out the key elements of the MDL and CAFA and examination of their interrelationships.

10:50a

Steve
Mooney

[Weinberg Wheeler
Hudgins Gunn &
Dial](#)
Atlanta, GA



MEMORABLE CLOSING STATEMENTS AND CROSS-EXAMINATIONS
A Serious but Humorous Review of Some of the Best (and Worst)
Trial lawyers have used everything from obscene gestures to self-effacement to win- over jurors. Here's a generous helping of some of the best (and worst) ways to get the jury to see it your way.

11:10a - 11:40a

Coffee and Refreshment Break



11:40a

Kevin
Clark

[Lightfoot Franklin &
White](#)
Birmingham, AL



FEDERAL JURISDICTION UNDER CAFA
Whose Burden Is It, Anyway?

A majority of circuits hold that a removing party has the burden of establishing federal jurisdiction under CAFA, but there is rationale for the other view. Trial lawyer Kevin Clark analyzes this question and a related issue -- which party has the burden of proof with respect to CAFA's exceptions, e.g., the Local Controversy Exception.

12:00n

Mary Anne
Mellow

[Sandberg Phoenix
& von Gontard](#)
St. Louis, MO



**STRATEGIC IMPLICATIONS OF JOINT
AND SEVERAL LIABILITY, INDEMNITY
AND CONTRIBUTION**
The More the Merrier?

Most states limit joint and several liability, but many do not. Common knee-jerk reaction to a new case is to bring in third-parties for contribution or indemnity. However, strategic legal and business reasons may counsel a different course. Until juries can be instructed on the implications of joint and several liability, in-house counsel must consider all possible fallout and implications.

12:20p

Steve
Willger

[Thompson Hine](#)
Cleveland, OH



CORPORATE CRISIS MANAGEMENT
*In-house Counsel in the Hot Seat; What
to Do About It*

A massive pollution event, a product defect that raises widespread health and safety concerns, or lawsuits with a potential significant impact on the company's financial condition can wreak havoc on a company's financial health and stability, and can even shut a company down. Suggested preparation and training steps to take, and pointers on managing crises during their active phases until their immediacy subsides. Who should speak and what they should say? How to handle fault and responsibility. What not to do. Leadership roles for senior in-house counsel.

12:40p

Rod
Heard

[Wildman Harrold](#)
Chicago, IL



**JURORS UNSILENCED AND ASKING
QUESTIONS**

A majority of jurisdictions hold that a trial judge can allow questions from the jury, but few judges do. The trend is to allow questions. Trial attorney Rod Heard shares his experience in dealing with loss of objectivity, over-involvement, and improper questions. Procedural bases for allowing questions, instructions concerning what kinds and scope of questions can be asked, when questions can be asked, whether questions can be asked directly of the witnesses or only put to the judge, and whether in writing or oral. Actual experience with juror questions.

1:00p
James Miller
[Akerman Senterfitt](#)
Miami, FL



SEEING IT THE WAY THE JURY SEES IT
How Not to Miss Signals the Jury is Sending
 Jurors are telling us things from the moment they arrive for *voir dire*, and even before. Legal education and training can be an impediment to hearing what they are telling us, verbally and non-verbally. Trial lawyer Jim Miller discusses his use of focus groups aided by professionals with social science backgrounds to help filter out the noise and bring out the jury's voice.

1:20p
John Fitzpatrick
[LeClairRyan](#)
Richmond, VA



DEFEATING FAILURE TO WARN CLAIMS
 There was nothing any company could have told the Navy during WWII that would have tempered its "insatiable appetite" for asbestos. Nevertheless virtually every shipyard case alleges that the product manufacturer defendant failed to warn about the dangers of asbestos. Lessons learned and how juries react to effective futility, impossibility and other defenses. Application of winning approaches to other product litigation.

1:40p
WORKING LUNCH BREAK-OUT SESSIONS

9 Simultaneous Break-out Sessions with Lunch (Choose your focus areas when you register.)

1	HOT TOPICS FOR IN-HOUSE LITIGATION MANAGERS	<p>Marshall Grossman Moderator <i>Alschuler, Grossman, Stein & Kahan</i> Los Angeles, CA</p> <p>Roger McCleary <i>Beirne, Maynard & Parsons</i> Houston, TX</p> <p>Hal Morlan <i>Akerman Senterfitt</i> Orlando, FL</p>
	HOT TOPICS FOR IN-HOUSE LITIGATION MANAGERS	<p>Alex Marconi Moderator <i>Snell & Wilmer</i> Phoenix, AZ</p> <p>Gord McKee <i>Blake, Cassels & Graydon</i> Toronto, Ontario</p> <p>Jeff Ment <i>Rome McGuigan</i> Hartford, CT</p> <p>Bob Monnin <i>Thompson Hine</i> Cleveland, OH</p>
	HOT TOPICS FOR IN-HOUSE LITIGATION MANAGERS	<p>Susan Artinian Moderator <i>Dykema</i></p>

3		<p>Detroit, MI</p> <p>Teresa Bartosiak <i>Sandberg, Phoenix & von Gontard</i> St. Louis, MO</p> <p>Linda Woolf <i>Goodell, DeVries, Leech & Dann</i> Baltimore, MD</p>
4	HOT TOPICS FOR IN-HOUSE LITIGATION MANAGERS	<p>Rod Heard Moderator <i>Wildman Harrold</i> Chicago, IL</p> <p>Warren Platt <i>Snell & Wilmer</i> Phoenix, AZ</p>
5	HOT TOPICS FOR IN-HOUSE LITIGATION MANAGERS	<p>Tony Lathrop Moderator <i>Moore & Van Allen</i> Charlotte, NC</p> <p>Mary Anne Mellow <i>Sandberg, Phoenix & von Gontard</i> St. Louis, MO</p>
6	HOT TOPICS IN INSURANCE COVERAGE LITIGATION	<p>Bruce Friedman Moderator <i>Alschuler, Grossman, Stein & Kahan</i> Los Angeles, CA</p> <p>Jeffrey Commisso <i>Morgenstein & Jubelirer</i> San Francisco, CA</p>
7	HOT TOPICS IN GOVERNMENT SUITS, SUBPOENAE AND INVESTIGATIONS	<p>Doug Grover (former A.U.S.A) Moderator <i>Thompson Hine</i> New York, NY</p> <p>Joe Ortego (former A.D.A) <i>Nixon Peabody</i> New York, NY</p> <p>Steve Fogg (former A.D.A) <i>Corr, Cronin, Michelson, Baumgardner & Preece</i> Seattle, WA</p>
8	HOT TOPICS IN SUBROGATION LITIGATION	<p>Steve Johnson Moderator <i>Gibbons, Del Deo, Dolan,</i></p> <p><i>Griffinger & Vecchione</i> Philadelphia, PA</p>
	HOT TOPICS IN	David Nagle

9

EMPLOYMENT
LITIGATION

Moderator
LeClairRyan
Richmond, VA

Tracy Van Steenburgh
*Halleland Lewis Nilan &
Johnson*
Minneapolis, MN

2:40p

Jeff
Williams

[Morgenstein &
Jubelirer](#)
San Francisco, CA



BEATING CONSPIRACY CLAIMS

Conspiracy allegations have gained favor with the plaintiffs' bar because of their potential for imposing liability on all of the members of an industry or organization without proof of wrongful conduct of individual members. Even in meritless claims, the practical effect of a conspiracy count is to cause each defendant to face the possibility of liability for the conduct of another, thereby increasing the cost of defense and resolution. Trial lawyer Jeff Williams discusses how meritless conspiracy claims can be smoked out using common discovery tools. Practice pointers for defeating conspiracy claims.

3:00p

Bobby
Hood

[Hood Law Firm](#)
Charleston, SC



**HOLDING DOWN BIG VERDICTS AND
AVOIDING PUNITIVE DAMAGES**

Don't miss "country lawyer" Bobby Hood's presentation on mock trials, insight provided by shadow juries, the importance of OSIs (other similar incidents), the need for a Rule 104 hearing to limit inflammatory evidence, humanizing your defendant and presenting your theme with key witnesses who understand the importance of going back to their home bases on cross examination. In-house counsel would do well to consider the benefits that a country lawyer, especially one who's argued before the U.S.S.C., can bring to a diversified national defense team.

3:20p

Steven
Fogg

[Corr Cronin
Michelson
Baumgardner &
Preece](#)
Seattle, WA



**PROTECTING YOUR CEO FROM APEX
DEPOSITIONS**

Former Assistant D.A. and trial lawyer Steve Fogg maps out a plan for protecting your CEO and other high level executives from deposition. Plaintiffs want to depose executives in every case they can, even where the executive has no first-hand knowledge of underlying facts, just to pressure the defendant. So-called "apex depositions" increase plaintiffs' settlement leverage. Courts have begun to focus on this practice and provide guidance to practitioners. Suggested strategies for avoidance and limitation of apex depositions.

AN HOUR OF ETHICS IN A NEW YORK MINUTE

3:40p

Warren
Platt

[Snell & Wilmer](#)
Phoenix, AZ



**ETHICS: RELATIVE TRUTH AND
EXPLICITLY AMBIGUOUS SETTLEMENT
AND MEDIATION TACTICS**

Are Ethical Settlement Tactics an Oxymoron?
Ethical implications of representations and disclosures of parties in settlement negotiations and mediation. Interesting new views, including a recent ABA proposed rule.

	Dealing with the mind-bending and ethically challenging concept that parties are supposed to be candid and forthcoming in settlement negotiations. Veteran trial lawyer Warren Platt speaks from experience and with authority.
4:00p Tracy Van Steenburgh Halleland Lewis Nilan & Johnson Minneapolis, MN	 ETHICS: WHAT EMPLOYEE RIGHTS REMAIN WHEN USING TECHNOLOGY? Why blogging, e-mail, telephone and Internet use are never really private and can be restricted. Key-stroke and website visitation tracking. Acceptable use policies. Company liability for e-mail and Internet conduct of employees. What companies can do to protect their right to inspect and monitor for business-only communications. Impact on some companies' duties to monitor, screen and filter. Bases for effective e-mail and Internet use policies.
4:20p Gwyn Quillen Alschuler Grossman Los Angeles, CA	ETHICS: THE OUTER LIMITS OF INDEMNIFICATION Indemnification of employees, officers and directors as a matter of right, bylaw and statute. Limitations (or the relative absence thereof) in the face of outrageous conduct, frolics and detours, lack of reasonable belief that the conduct is or could be in the best interest of the company, and more.
4:40p	 CLOSING REMARKS Michael O'Donnell -- 2006 Chair <i>Wheeler Trigg Kennedy</i> Denver, CO

This CLE program is produced by The Network of Trial Law Firms, Inc., a not-for-profit 503(c)(6) corporation, on behalf of its 27 member law firms and over 6,000 attorneys in 105 offices throughout the United States and Canada.

The Network is well-known for its outstanding CLE programs. Since 1993, we have produced more than 30 cutting-edge CLE programs on trial and litigation management topics.

The Network is not affiliated with the Association of the Bar of the City of New York and appreciates the courtesy extended by the Association in permitting it to use the Association's House.

All costs of production are borne by the producer, including room rental and food charges.

The Network is making a gift to
The CITY BAR FUND
and has previously made a gift to
The NEW YORK BAR FOUNDATION
in lieu of Charging Tuition to In-house Counsel

Tuition is \$500
(includes breakfast, lunch and all materials)

but

Complimentary for In-house counsel
(Please Note: Due to last year's sold-out situation and limited capacity of 350 attendees,

insurance company staff counsel will not be considered In-house Counsel for Complimentary Tuition Purposes)

* The Association of the Bar of the City of New York is not affiliated with The Network of Trial Law Firms, Inc.

--- ONLINE REGISTRATION ---

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Please enter below the State(s) that you are admitted to
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