

## Thursday APRIL 30, 2020

7:00 PM - 10:00 PM

**Welcome Reception and Dinner at the Courtyard Pool**

## Friday MAY 1, 2020

7:30 AM - 9:00 AM

**Breakfast and Program Registration**

9:00 AM - 9:05 AM

**Opening Statement from The Trial Network Chair**

9:05 AM - 9:10 AM

**Welcome from the Seminar Chairs**

9:10 AM - 9:30 AM

**Navigating Sex, Gender, and Orientation Discrimination in the Workplace**

CABELL CLAY - MOORE &amp; VAN ALLEN - CHARLOTTE, NC

Under Title VII of the Civil Rights Act of 1964, it is illegal for an employer to discriminate against an individual on the basis of sex. Employers are now addressing the modern-day definition of "basis of sex" to include gender identity and sexual orientation. This session explores the status and compliance of murky workplace discrimination laws and will discuss the three cases that are currently before SCOTUS.



9:30 AM - 9:50 AM

**How to Win Friends (Maybe) and Influence Courts**

MICHAEL WILLIAMS - BUSH SEYFERTH - KALAMAZOO, MI

In court (and in the TV drama Law and Order series), opposing counsel may believe they can advance their clients' positions by utilizing antagonistic approaches, inflammatory accusations and insults. This session offers examples of opposing counsel tactics from recent cases, discusses strategies for neutralizing such difficult behavior, and offers tools on how to flip to your client's advantage.



9:50 AM - 10:10 AM

**Lion or Lamb? Trial Lawyers and Mediation Advocacy Skills**

TONY ROSPERT - THOMPSON HINE - CLEVELAND, OH

Some believe that the attributes needed to effectively mediate are opposite to those necessary to attain success as a trial lawyer. This session debates that the characteristics and skills that produce successful trial lawyers also create effective advocates in mediation, and that in-house counsel would be shrewd to use trial lawyers in mediations.





10:10 AM - 10:50 AM

### **PANEL: Mediator Selection**

ASHLEY WEBBER - SWIFT CURRIE MCGHEE & HIERS - ATLANTA, GA (MODERATOR)

Who is the best mediator for this case – with this plaintiff, this defendant, against this attorney in this jurisdiction? How do you make that determination? And, once there, how do you take charge and control the mediation? In this panel, Ashley Webber and Denia Aiyegbusi will share best practices for the selection and the most effective use of mediators. The session will include examples from a variety of cases, venues and damages claimed, including how to deal with opposing attorneys and rouge mediators.



Panelist: Denia Aiyegbusi (Deutsch Kerrigan)

10:50 AM - 11:20 AM

### **Refreshment and Coffee Break**



11:20 AM - 12:00 PM

### **PANEL: Moving the Needle on Diversity & Inclusion: Getting Your Legal Team to be More Reflective**

KATHLEEN BURNS - NIXON PEABODY - BOSTON, MA (MODERATOR)

Diversity and inclusion efforts and discussions over the past decade have unfortunately yielded limited results in recruiting, retaining and promoting diverse talent, including racial and ethnic minorities, women, LGBTQ individuals, veterans and individuals with disabilities. This panel focuses on how leaders in law firms and in-house counsel can successfully move the diversity needle by utilizing a variety of initiatives such as the Mansfield Rule, unconscious bias training, mentoring and sponsorship, and other programs.



Panelist: Ashley Hardesty Odell (Bowles Rice)



12:00 PM - 1:00 PM

### **ROUNDTABLE TRACK A: Staying Afloat in the Ever Changing Sea of Artificial Intelligence**

SCOTT ETISH - GIBBONS - PHILADELPHIA, PA (MODERATOR)

Lawyers have an affirmative ethical responsibility to abide by the ABA Model Rules of Professional Conduct to “keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology.” This presentation explores recent technology advancements affecting the legal industry, including vendor delivery models that offer cost reduction and greater flexibility in interacting with case data; and new tools that reshape traditional linear document review. Discussion also addresses the potential use of technology advancements in offering defenses to motions for sanctions for spoliation.



12:00 PM - 1:00 PM

### **ROUNDTABLE TRACK B: Stacking the Deck for Success in an Employment Claim**

PATTI PREZIOSO - PORZIO BROMBERG & NEWMAN - MORRISTOWN, NJ (MODERATOR)

As we have seen in the media, employment claims can prove detrimental to a company’s reputation, especially with the growing numbers of claims and individual state legislation potentially limiting the availability of confidential settlements. This track offers solutions on how to best protect your company’s brand and reputation with tools and resources already available within your company. It also presents how gathering accurate information in investigations and securing admissible evidence can set the stage for your best assessment and litigation strategy, including improving your position in settlement negotiations, building points for leverage, and if necessary, taking your case to trial.



12:00 PM - 1:00 PM

### **ROUNDTABLE TRACK C: What You Need to Know to Keep Your Clients Protected from Costly Civil and Criminal Antitrust Exposure**

DAVID GUSTMAN - FREEBORN & PETERS - CHICAGO, IL (MODERATOR)

The Department of Justice showcased 41 cases of antitrust filed in 2019 covering a variety of industries throughout the country, including both civil and criminal cases. This track addresses the basic issues and approaches to protecting clients from costly antitrust litigation and criminal investigation, as well as the importance of compliance and training programs. The session also tackles and offers solutions to real world issues such as when competitors engage at a trade show and the creation of documents that might be misinterpreted.



12:00 PM - 1:00 PM

### **ROUNDTABLE TRACK D: What to Do if Your Company is Raided by ICE?**

SCOTT O'CONNELL - NIXON PEABODY - BOSTON, MA (MODERATOR)

US Immigration and Customs Enforcement (ICE) has increased worksite operations considerably under the current administration. This means that any company can be audited for employment compliance and verification at any time and potential criminal and civil liability may result from such investigations. This panel of experts, including the former acting Director of ICE and former acting General Counsel for the Department of Homeland Security, discusses best practices for managing risk and what to do if ICE knocks on your door.

1:00 PM - 1:45 PM

### **Group Lunch**

2:00 PM - 5:00 PM

### **Recreational Activities**

7:00 PM - 10:05 PM

### **Roaring 20's Reception at the Flagler Museum**

## **Saturday** **MAY 2, 2020**

7:30 AM - 9:00 AM

### **Breakfast and Program Registration**

9:05 AM - 9:10 AM

### **Welcome Back from the Seminar Chairs**

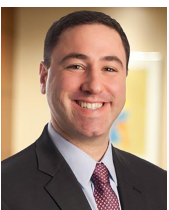


9:10 AM - 9:30 AM

### **The Legal "High"-Lights of Drone Technology**

NIKKI NESBITT - GOODELL DEVRIES LEECH & DANN - BALTIMORE, MD

According to a Wall Street Journal report, the history of non-military drone use began in 2006. From photography to delivery to surveillance, drones are now performing functions that previously required human interface. This session discusses the increased use of this automated technology and the fascinating considerations of liability exposure to the entities operating the drones.



9:30 AM - 9:50 AM

### **SAY WHAT? Modern Communication Tools and a Lawyer's Ethical Obligations**

DAVID SUCHAR - MASLON - MINNEAPOLIS, MN

In a 2019 "State of Texting" report, 39% of those surveyed stated that their businesses use texting to communicate with clients because of low email open rates due to cluttered inboxes or spam catchers. Additionally, some clients prefer communicating via text or email over phone calls. This session addresses a lawyers' ethical obligations when utilizing such communication tools and includes a discussion on types of problematic texts/emails as well as the challenges for marketing and communicating through social media.



9:50 AM - 10:10 AM

### **Climate Change Litigation: The New Battleground**

HUGH GOTTSCHALK - WHEELER TRIGG O'DONNELL - DENVER, CO

Climate change is the preeminent scientific and political issue facing the world today. This crisis is now a battle in the courtroom, since various large municipalities have filed nuisance and trespass claims against multi-national oil companies in several lawsuits around the country. The municipalities allege that these oil companies contributed to global climate change, requiring them to invest in infrastructure to avoid the impacts. This session covers one of leading cases in the country involving Suncor Energy and provides insights concerning the use of litigation to combat climate change, issues and arguments that are being presented to the courts, and recovery of damages.



10:10 AM - 10:50 AM

### **PANEL: Having 2020 Vision into the Government's Investigation of Your Company**

LISA RIVERA - BASS BERRY & SIMS - NASHVILLE, TN (MODERATOR)

In 2019, the Department of Justice ("DOJ") commenced antitrust investigations into the big four tech companies: Apple, Google, Facebook and Amazon. In 2020, government investigations will continue to be a major challenge for corporate America. This panel, led by a former DOJ attorney, guides you through the government's current areas of focus and thought processes, as well as offers tactics for each step of the investigations to be used to a company's advantage. Discussion will include best practices for maintaining privileges and handling qui tam actions.

10:50 AM - 11:20 AM

### **Refreshment and Coffee Break**



11:20 AM - 11:40 AM

### **After the Cyber-Attack – From Internal Investigation to Potential Litigation Strategies**

ROBERT SHIMBERG - HILL WARD HENDERSON - TAMPA, FL

Large and small companies fell victim to cyber-attacks on an almost daily basis in 2019. Some of the more well-known companies infected included Disney, Facebook, Evite, Capital One and Macy's. This segment takes us on a journey from the immediate aftermath of a cyber-attack to potential litigation strategies. It covers the scope of the attack; critical assessments on whether customer and/or government agency notice is required; determination on the branches of law enforcement best suited to notify; communication to employees, customers, and the media; and establishment of activities that may give rise to potential regulatory action or individual class lawsuits, and how to mitigate potential losses



11:40 AM - 12:00 PM

### **Privacy Please: California's New Consumer Privacy Act and Related Data Breach Laws**

SUSHILA CHANANA - FARELLA BRAUN + MARTEL - SAN FRANCISCO, CA

In today's data-driven environment, smart businesses are collecting consumer data for various strategic initiatives. Companies conducting business in California should be cognizant of and in compliance with the multiple intersecting California privacy and data breach laws including the existing Data Breach Notification Law and the new California Consumer Privacy Act (CCPA). This session provides an overview of the relevant laws and defines opportunities to mitigate risk to maximize the benefit of the consumer data that companies collect. Topics also include California's definition of personal information, appropriate usage and strategies for compliance, and penalties/exposure for failure to comply.

12:00 PM - 12:05 PM

### **Closing Argument from the Network Chair**



12:05 PM - 1:05 PM

### **ROUNDTABLE TRACK A: Recent Trends in Non-Compete Enforcement: Employee Mobility on the Rise**

TODD WILLIAMS - CORR CRONIN - SEATTLE, WA (MODERATOR)

The interpretation and enforcement of employee non-compete clauses continues to evolve around the country with new landmark legislation and court decisions. Recently, Massachusetts' courts indicated that the reforms passed last year may not be as radical as originally envisioned; Washington State passed a broad new law barring the general use of restrictive covenants; and a Colorado court supported the trend against "blue line" clauses to allow courts to reform otherwise unenforceable agreements. The general trend towards increased employee mobility continues with certain notable exceptions. This interactive session covers highlights from recent cases and new legislation around the country.



12:05 PM - 1:05 PM

### **ROUNDTABLE TRACK B: ERISA — Denial of Benefit Claims in Employer Sponsored Plan**

HENRY WILLETT - CHRISTIAN & BARTON - RICHMOND, VA (MODERATOR)

Employer-funded insurance plans are becoming more popular as they can offer better flexibility and cost-savings to companies, however, they must be designed in a way to minimize litigation risk. This session offers best practices in plan design and covers the three critical phases of denial of benefits claims involving these plans under ERISA. The discussion will also address strategies for handling internal administrative appeals in order to protect administrative records, and will conclude with a discussion of litigation avoidance and how best to position a case for summary judgment.



12:05 PM - 1:05 PM

### **ROUNDTABLE TRACK C: Advice to Transactional Lawyers by Trial Lawyers in Drafting Contracts**

CHIPS PRUETT - LIGHTFOOT FRANKLIN & WHITE - BIRMINGHAM, AL (MODERATOR)

Business deals go south for all kinds of reasons, many of which are unforeseeable and could not have been averted no matter how carefully a deal was designed and documented. By the same token, there's likely many situations in which one party would leap at the opportunity to rewind the clock back to when a contract was first being drafted. In many scenarios, broken deals result in contract disputes. This interactive track engages trial lawyers to offer insight for drafting and negotiating contracts to succeed in a litigation context.



12:05 PM - 1:05 PM

### **ROUNDTABLE TRACK D: Driving Blind?: How Transportation Tech Disruptors Will Impact Litigation Dockets**

TONY LATHROP - MOORE & VAN ALLEN - CHARLOTTE, NC (MODERATOR)

Technology innovation continues to "map" out a new legal landscape within the transportation industry. Forks in the road include the boundaries of the traditional employment relationship, the constructs governing liability and insurance coverage of car automation, disputes regarding property access, notions of mobile privacy and data security, and the increasing pressure on governments to modernize the transportation infrastructure. This track explores these and other areas of the law that may be challenged by the disruption of transportation technology.

1:05 PM - 1:45 PM

### **Group Lunch**

2:00 PM - 5:00 PM

### **Recreational Activities**

7:00 PM - 10:00 PM

### **Closing Night Reception and Dinner at the Courtyard Pool**

