

# “Corporate Litigation: Never Face the Music Alone”

November 4-5, 2022

The Terranea Resort; Rancho Palos Verdes, CA

Friday, November 4, 2022

- 8:30a – 8:35a            Opening Statement by The Trial Network Chair
- 8:35a – 8:40a            Welcome from the Seminar Co-Chairs
- 8:40a – 9:00a            **The New Frontier: Artificial Intelligence in the Workplace**  
*Julie Moore – Bowles Rice*  
Will robots and artificial intelligence replace humans in the workplace? This presentation covers some of the potential employment law issues arising from the use of AI in the workplace, including considerations related to productivity and employee retention. Additionally, this presentation reviews recent legislative and regulatory responses to the increased use of AI by employers and provides tactics to avoid pitfalls and minimize risk in this developing area.
- 9:00a – 10:00a            **Panel: Outside Counsel Report Card – Best Practices and Pet Peeves**  
*Tony Rospert – Thompson Hine*  
If you graded your outside counsel on a report card, what letters would you assign for communication clarity, billing and budgeting, partnership, and productivity? This panel of in-house and outside counsel does just that and also shares best practices employed by their teams to manage ever-increasing workloads. In-house panelists also address sources of frustration with law firms which, despite a stated willingness to improve case management, often have much room for improvement if they want an “A” from clients.
- 10:00a – 10:30a           Refreshment Break

10:30a – 10:50a

**A River Runs Through It – Navigating Complex Multidistrict Environmental Litigation**

*Neil Westesen – Crowley Fleck*

In 2015, three million gallons of toxic water spilled from Colorado’s Gold King Mine into Lake Powell. Using the resulting complex multidistrict litigation as a case study, Crowley Fleck’s Neil Westesen shares lessons he learned as counsel in the matter. He also provides strategies for managing multidistrict “bet-the-company” litigation and tactics for achieving a successful outcome in the face of adversity.

10:50a – 11:10a

**The Inherently Harassing Nature of Apex Depositions**

*Rachel Lary – Lightfoot Franklin & White and*

*Brad Marsh – Swift Currie McGhee & Hiers*

Are general statements made to the public by a CEO sufficient to justify deposing her? Some courts are reluctant to adopt the apex doctrine, which protects top corporate officers from being deposed unless they have personal knowledge of a matter and the information sought cannot be obtained from other sources. Drawing from their experience representing General Motors in its efforts to bar the deposition of the company’s CEO, Lightfoot and Swift Currie explore the sweeping implications of the Supreme Court of Georgia’s decision in the matter and address how to protect your CEO from harassing depositions with or without the apex doctrine.

11:10a – 11:50a

**Ethics Panel: The Best Defense is a Strong PR Offense**

*Kathryn Walker – Bass, Berry & Sims*

Plaintiffs’ lawyers notoriously leverage the media in significant cases, but two can play that game. This panel discussion explores proven strategies corporate defendants can implement to build a strong media offense. Panelists will also address how to ensure that a winning PR strategy avoids coming in conflict with varying jurisdictional ethics rules.

11:50a – 12:00p

Gather Lunch for Break-Out Sessions

12:00p – 12:50p

**Break-Out A: Latest and Greatest ADR Strategies for Success**

*Robert Shimberg – Hill Ward Henderson*

Effective advocacy in mediation or arbitration requires mastery of a unique set of skills and a strategic approach before, during, and after proceedings to achieve the desired outcome. Taking into consideration the roles of the mediator / arbitrator, attorney, and client, this breakout provides tips for negotiating the format of proceedings and options to consider for managing expenses, depth of discovery, and the pace. Facilitators will also cover significant court decisions, including on the waiver of arbitration rights, and how they may impact case strategy.

Discussion Leaders:

*Roger Meyers – Bush Seyferth*

*Mark Adkins – Bowles Rice*

**Break-Out B: Wage and Hour Class Action Trends and Developments**

*Blake Marks-Dias – Corr Cronin*

Employer and employee compliance with federal and state wage and hour laws is critically important. As a result, attorneys, human resources, and compliance personnel must stay up to date on the latest legal developments. This breakout session covers recent trends and developments affecting wage and hour class actions, including arbitration clause enforceability, strategies for defeating class certifications, strategic discovery and motions practice, and settlement considerations.

**Break-Out C: Battling the Keyboard Warriors – Managing Disparaging Online Reviews and Social Media Posts**

*Nikki Nesbitt – Goodell DeVries Leech & Dann*

One of your most important assets is your reputation. How a business responds to a negative online review or social media post can be just as impactful as the review itself. Attempts to counter or respond in kind—including by filing lawsuits—may backfire and amplify the review or subject a business to further scorn, ridicule, and bad publicity. This breakout session provides in-house and outside counsel legal and practical strategies for managing negative online feedback and invites participants to share experiences and brainstorm solutions.

Saturday, November 5, 2022

8:30a – 8:40a

Welcome Back from the Seminar Co-Chairs

- 8:40a – 9:00a      **Navigating the Smart City: Legal Developments and Considerations in Connected and Autonomous Transportation**  
*Tony Lathrop – Moore & Van Allen*  
New technologies like autonomous vehicles and unmanned aerial systems (UASs) are revolutionizing the movement of goods and people in cities with smart infrastructure. As innovation drives and flies us into a more electrified, connected, and autonomous transportation system, businesses face new legal challenges and policy considerations related to liability and insurance, privacy and mobile data security, and intellectual property and securities issues. Tony Lathrop addresses legal and regulatory developments as autonomous technology gains traction and explores considerations for business operations and innovation.
- 9:00a – 9:20a      **Controlling the Message: Leveraging “Good” Documents in Litigation**  
*Juan Ramirez – Wheeler Trigg O’Donnell*  
Bad documents have the power to erode brands, cause reputational and financial harm, and derail successful litigation outcomes. While this topic may seem like old ground for seasoned trial lawyers, Wheeler Trigg’s Juan Ramirez goes beyond the simple identification of bad documents and offers practical tips for companies to mitigate litigation risks through the under-utilized practice of creating helpful “good” documents.
- 9:20a – 10:00a      **Panel: Our Cup Runneth Over: Managing Demands Over Policy Limits**  
*Jerry Glas – Deutsch Kerrigan*  
Jurors in the post-pandemic world are unpredictable. Plaintiffs know lawyers must sound the alarm when they make a policy-limits demand and threaten to demand “millions more” at trial—but they can’t control what happens next. This panel of in-house counsel has been there and will share first-hand experiences, unique approaches to negotiating with opposing counsel, and strategies for “herding cats.” Hear what they are and are not willing to do to get a case settled or “positioned” for trial.
- 10:00a – 10:30a      Refreshment Break

- 10:30a – 10:50a      **Finding Your Voice: Communicating with Today’s Juries**  
*Mike Bell – Lightfoot Franklin & White*  
2022 is a uniquely challenging time for corporate litigation counsel. Our society is intensely divided, and people think they are smarter than ever. The prevailing attitude is that civil lawsuits are the best way to solve a dispute and that jury verdicts are “about right.” How do trial lawyers succeed in this new era with polarized jurors who think they have all the answers? This session explores how to find the right trial “voice” and use fresh, creative thinking to capture jurors’ attention and open their minds.
- 10:50a – 11:50a      **Panel: Diversity Efforts in the Workplace: What’s Working and What’s Not**  
*Malissa Wilson – Forman Watkins with  
Denia Aiyegbusi – Deutsch Kerrigan*  
What’s working and what’s not when it comes to diversity, equity, and inclusion (DE&I) efforts in the workplace? This panel of in-house counsel shares timely and relevant perspectives and considerations that inform recruitment and retention decisions, all while keeping DE&I top of mind. Attendees will come away with action items and ideas for creative initiatives to cultivate DE&I in their workplaces.
- 11:50a – 12:00p      Special Presentation and Closing Argument by The Network Chair
- 12:00p – 12:10p      Gather Lunch for Break-Out Sessions
- 12:10p – 1:00p      **Break-Out A: A Picture is Worth a Thousand Words: Leveraging Visuals and Demonstratives**  
*Joe Angersola – Swift Currie McGhee & Hiers*  
Visual images are powerful trial tools that can transform complicated information into easily understandable evidence, engage the jury, and make your presentation memorable. This group of experts explores the latest developments and considerations in demonstratives and animation science and technology. A graphics expert shares the evidence and studies supporting the impact of visuals and demonstratives on juries, and breakout leaders share firsthand experiences when cutting-edge visuals and demonstratives led to positive results for their clients.  
Discussion Leaders:  
*Christina Marinakis – IMS/Litigation Insights  
Ryan Siekmann – S-E-A*

### **Break-Out B: Reflecting on 2+ Years of Remote Work**

*Bill McDonald – Bush Seyferth*

The past two-plus years of remote work have permanently changed the way the legal industry operates. Working from home and serving clients virtually in mediations, depositions, and hearings have given rise to new opportunities, many challenges, and novel legal and ethical considerations. This breakout explores the creative ways firms are meeting employee needs and demands in this new environment and reflects on the changes to client service that have and haven't worked and what the future may hold.

Discussion Leaders:

*Mary Clift Abdalla – Forman Watkins & Krutz*

*Greg Marshall – Snell & Wilmer*

### **Break-Out C: Your Downfall, Their Windfall – How Mass Torts Are Driving Bankruptcy**

*Warren Martin – Porzio Bromberg & Newman*

Plaintiffs' Mass Tort lawyers have upended the U.S. corporate reorganization process that, at its core, aims to maximize corporate value and redistribute that value to creditors while staving off liquidation. This breakout uncovers the strategies and tactics Plaintiffs' Mass Tort lawyers employ to disrupt and abuse traditional bankruptcy proceedings and manufacture their own financial windfall — all of which culminates in financial calamity for corporations and creditors alike. Porzio's Warren Martin also shares best practices for "disrupting the disrupters" and protecting corporate value in these proceedings.