

Lead Litigation Conference



October 18-19, 2012 | Sheraton New Orleans Hotel, New Orleans, LA

CONFERENCE CHAIRS:

Brian S. Brown, Saul E. Kerpelman & Associates, P.A.

Patricia S. Ciccarelli, Brown & Kelly, LLP

Thursday, October 18, 2012

7:30 Registration & Continental Breakfast
Sponsored by Bodie, Dolina, Hobbs, Friddell & Grenzer, P.C.

8:30 Introduction and Opening Remarks

8:45 Low Level Exposures – Today

- Updated literature and effects of low-level lead exposures
- Why did the CDC recommend lowering national lead action levels to 5µg/dL
- Health impacts of lead levels of 5µg/dL: Associated IQ deficits, behavioral impacts, cardiovascular, immunological and endocrine effects
- Will this change impact course of treatment, diagnostic testing, prevention measures, etc?
- CDC’s recommendation to eliminate the term “blood lead level of concern”
- Opposing views: Problems with low level studies

Benjamin Hiller, Moquin & Daley, P.A.
John Etter, Rodney & Etter
Rosalind Schoof, PhD, DABT, ENVIRON

10:00 Juries, Social Media and the Court: What You Need to Know About This & Ethical Considerations

- Are juries using social media? Why or why not, and is it intentionally case-related?
- Are courts addressing the use of social media in jury instructions – Why or why not?
- Social media’s impact on case outcomes, jury retention and case strategies
- An attorney’s use of social media during trial?
- Using social media to choose your jury – How to use it as a tool and mistakes to avoid
- Instructions on what to do if a juror has used social media improperly or you discover harmful information
- Ethical considerations in light of ABA Model Rules 3.5, 8.3 and 8.4

Jaine Fraser, PhD, Trial Psychology Institute
Thomas Cullen, Goodell, DeVries, Leech & Dann, LLP
Scott Nevin, Law Offices of Peter T. Nicholl

10:45 Morning Break
Sponsored by Ringler Associates

11:00 Pre-Suit Issues, Case Management & Settlement from the Perspective of the Insurance Adjuster and Plaintiff

- Who are the other defendants? Or other premises that could be involved?
- Other potential plaintiffs
- Insurance issues to consider
- Balancing the divide: What is the role of the insurance adjuster and the defense counsel?
- Best practices for resolving cases pre-suit: What documents and evidence are adjusters really looking for to determine settlement?
- Do adjusters view cases in light of jurisdictional influences? If so, why and how?
- Lead paint investigations: What are the red flags for adjusters and what do they look for?

Mark Richter, O’Connell & Aronowitz
Steven Rice, Harris Beach PLLC

12:00 Networking Lunch
Sponsored by McKenna Long & Aldridge

1:15 New Insurance Considerations: Pennsylvania National Insurance v. Roberts

- The duty to defend and to indemnify: Have they evolved during this long-standing litigation?
- “Occurrence”: The contractual definitions vs. interpreted definitions vs. application
- Time on the risk and apportioning the judgment to reflect this
- Stacking: Why is it still disputed?

S. Todd Willson, Bodie, Dolina, Hobbs, Friddell & Grenzer, P.C.
Marc Gaffrey, Hoagland, Longo, Moran, Dunst & Doukas, LLP

2:15 Litigation Strategies: This Isn’t a Road Wreck Case

- Discovery: Digging deeper than normal for potential co-defendants, alternative causation and impeachment
- Case evaluation: Specials, what specials? Changing the traditional claims person’s mindset and getting past brain damage arguments
- Voir dire: Bias or basis, purpose or expanding your typical purpose
- Evaluating and presenting evidence: Production or persuasion, making technical jargon understandable & deflecting emotional arguments
- Experts: Necessary evils, choice, & effectiveness
- What are you doing in your other areas of practice that translate to lead litigation?
- Ways in which a lead case differs from other injury cases: Pre-suit, discovery, trial and settlement

Michael Burgoyne, Thomas, Thomas & Hafer, LLP
Michael Ponterio, Lipsitz & Ponterio, LLC

3:15 Afternoon Break
Sponsored by Ringler Associates

3:30 Improving Your Appellate Chances in a Lead Case

- Making and preserving the record below
- Critical points to consider in writing your brief
- Mistakes to avoid
- Best practices for your oral argument

Hon. Michele Hotten, Maryland Court of Special of Appeals, 4th Appellate

Andrew Baida, Rosenberg Martin Greenberg, LLP

Mary Fitzgerald, Brown & Kelly, LLP

4:30 Discovering the Keys to Winning Discovery Techniques

- Discovery as the key to successful plaintiff or defense verdicts
- Why are “Mom Depositions” so critical?: What do you need to get on the record
- The value of tailored interrogatories and what you may forfeit in other jurisdictions by serving some
- Requests for admissions of fact
- Non-party discovery: Non-experts and non parties to be deposed
- Related disputes: Family history, protective service records other landlord properties, etc.

Anne Joynt, Lipsitz & Ponterio, LLC

Lisa Morgan, The Law Offices of Frank F. Daily, P.A.

Gary Abelson, Hiscock & Barclay LLP

Richard Serpe, Law Offices of Richard J. Serpe, P.C.

5:30 Cocktail Reception

Friday, October 19, 2012

8:00 Continental Breakfast
Sponsored by ENVIRON

8:30 Determining Source(s) of Exposure- Is it the House, Something Else or What do you Do if You Can't Tell

- What kind of expert do you need to prove what was source (doctor and/or lead risk assessor?)
- Circumstantial vs. direct evidence: A distinction without a difference
- Substantial contributing factor causation
- How much can you rely upon changes in a child's elevated blood to demonstrate ingestion or lack

Nicholas Szokoly, Law Offices of Evan K. Thalenburg P.A.
David Governo, Governo Law Firm LLC
Vincent Coluccio, DrPH, Vincent Coluccio Associates, Inc.

9:15 Settling Your Lead Paint Case - Tips from the Bench and The Mediator

Hon. Matthew Rosenbaum, Supreme Court Justice, Seventh Judicial District

Hon. Carol Smith (Ret.), Creative Dispute Resolutions, LLC

Clifton Gordy, Clifton J. Gordy Mediation Inc.

10:30 Morning Break

10:45 Economic Damages

- Surviving motions in limine & disqualifying experts
- Proving damages
- The types of experts needed
- Gamboa Gibson tables & reduced work/life expectancies

Brian Brown, Saul E. Kerpelman & Associates, P.A.

Ronald Getchey, McKenna Long & Aldridge LLP

A.M. Gamboa, Jr., Ph.D., Vocational Economics, Inc.

11:30 Judicial Roundtable

Brian Brown, Saul E. Kerpelman & Associates, P.A. &

Patricia Ciccarelli, Brown & Kelly, LLP (Moderators)

Hon. Michele Hotten, Maryland Court of Special of Appeals, 4th Appellate Circuit

Hon. Matthew Rosenbaum, Supreme Court Justice, Seventh Judicial District

Hon. Carol Smith (Ret.), Creative Dispute Resolutions, LLC

Clifton Gordy, Clifton J. Gordy Mediation Inc.

12:30 Adjourn