

Defense Asbestos Litigation Seminar

DALS | 2022

June 22-24, 2022

- Hear up to date defense strategies for discovery, pretrial and trial
- Gain insight into current plaintiff strategies and how to respond to them effectively
- Hear updates in Talc Litigation
- Share data and information with members of the defense bar, insurance company representatives and clients
- Learn helpful and proven techniques from experienced lawyers



Harrah's Las Vegas
Las Vegas, Nevada

Defense Asbestos Litigation Seminar

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The **Defense Asbestos Lawyer's Seminar (DALs)** is an opportunity for defense lawyers, clients, and affiliates to share ideas behind closed doors in an audience limited to the defense side of the litigation. You will learn first-hand from seasoned litigators and clients about litigation trends and techniques and potential solutions to today's most troubling issues. There will be multiple opportunities to network with in-house corporate and insurance representatives with the hope of strengthening current relationships and developing new ones.

What You Will Learn

- Current issues with respect to talc litigation
- State of the art strategies for use in mesothelioma cases
- Cross exam techniques and information for key plaintiff experts
- Practical advice for witness preparation
- The latest information on alternative causes of mesothelioma, including inherited gene causation

Seminar Organizers



Albert H. Parnell
Albert Parnell PC LLC
Atlanta, GA



R. Thomas Radcliffe
DeHay & Elliston LLP,
Baltimore, MD



Christopher P. Manning
DeHay & Elliston LLP,
Dallas, TX

PROGRAM SCHEDULE

Wednesday, June 22, 2022

- 5:00 – 6:00 p.m. **Registration**
- 6:00 – 7:30 p.m. **Cocktail Reception**
Sponsored by Dean Step Law and Cetrulo LLP

Thursday, June 23

- 7:00 – 8:00 a.m. **Continental Breakfast**
- 8:15 – 8:20 a.m. **Welcome and Introduction**
- 8:20 – 8:50 a.m. **The Current Status of Asbestos Filings and Future Projections**
Jennifer Holgado - PACE
Pete Kelso - Roux Associates
- This presentation will discuss the current rates of filings of lawsuits in the asbestos and talc arenas. It will compare the current filings with past filings and comment on what appears to be the future of the litigation.
- 8:50 – 9:30 a.m. **Cosmetic Talc Update-Trials, Tribulations, And Triumphs**
Edward P. Abbot - Hawkins Parnell & Young, LLP, NYC
- This session will review which jurisdictions are the most active** in the cosmetic talc litigation and whether any additional jurisdictions are on the horizon; it will present an overview of the recent cosmetic talc trials with an emphasis on plaintiffs theories, arguments, and experts and identify successful defense strategies; it will touch upon the necessity of cooperation of the defense bar in strategies, theme development, coordination, and resolution posturing; it will discuss what the Johnson and Johnson decision means in the short and long term to the defendants; and will take a look into what 2023 and beyond may bring.

- 9:30 – 10:10 a.m. **Practical Considerations for Remote Depositions: Cautionary Tales and Recommendations for Success**
Kyle E. Bjornlund - Cetrulo LLP, Boston
Karlene E. Manley - Cetrulo, LLP, Boston
- Don't give up on in-person depositions! This discussion will focus on the limitations of remote depositions and best practices to ensure an effective examination.
- 10:10 – 10:25 a.m. **Break**
- 10:25 – 10:55 a.m. **Plaintiff Advertising and Jury Selection**
Al Parnell - Atlanta, Georgia
- This presentation with update on the rates of plaintiff filings of advertising, the types of advertising, and the potential psychological effects of those filings on potential jurors.
- 10:55 – 11:40 a.m. **Asbestos Legislation: Update and Putting New Tools to Use**
Mark Behrens - Shook, Hardy & Bacon L.L.P., Washington, DC
Mary Margaret Gay - Gay Jones & Kuhn PLLC, Jackson, MS
Jay Surdukowski - RiverStone, Manchester, NH
- Over a dozen states have enacted laws to compel plaintiffs to file all asbestos trust claims at the outset of an asbestos personal injury case. These asbestos trust transparency laws give defendants a tool to argue for apportionment of responsibility to immune nonparties or obtain set-offs. Additionally, states are enacting laws to address "over-naming" of asbestos defendants. These reforms require plaintiffs to disclose the factual basis for each claim against each defendant with supporting documentation. The panel will identify the states that have enacted these reforms and discuss their content. The panel will also provide guidance to defense counsel as to how to utilize these laws to achieve justice for their clients and obtain earlier dismissal of unsubmittable claims.

11:40 – 12:20 p.m.	<p>Deposition Tactics That Move The Needle. <i>Moderator/Presenter: Christopher Marks - Tanenbaum Keale, Seattle</i> <i>In House Counsel Viewpoint: Brenda Godfrey - SPX Corporation, Atlanta, Georgia</i> <i>Insurance Representative Viewpoint: Kevin Cooke - Riverstone Insurance</i> <i>Fred Schaefer, Esq. – Nationwide Indemnity, Wausau, Wisconsin</i></p> <p>These seasoned in-house and trial counsel will explain what you should do and what you must never do at a deposition. The panelists will go through real world examples to show you how to confront lies, build key defenses, and create the best possible record that will permit your client to negotiate from a position of strength and, if necessary, enable your trial lawyer to deliver a winning closing.</p>	3:00 -3:45 p.m.	<p>Current Hot Beds for Asbestos Litigation and the Hurdles our Clients Must Navigate <i>Moderator: Beau Inabinet - Maron Marvel</i> <i>Jennifer McGarrity - Maron Marvel</i> <i>Timothy Coughlan - Maron Marvel</i></p> <p>This panel will discuss hot bed jurisdictions for asbestos litigation, including the challenges of discovery, motion practice, trials, and verdicts.</p>
12:20 – 1:40 p.m.	<p>Lunch</p>	3:45 – 4:00 p.m.	<p>Break</p>
1:40 – 2:25 p.m.	<p>PANEL: In-house Counsel Perspective: What We've Learned and What we Expect in a Post-2020 World. <i>Stan Ball -Eaton Corporation, CITY STATE</i> <i>Charlie Price - Eaton Corporation</i> <i>Jennifer Green - DeHay & Elliston</i></p> <p>This panel will review the events of the past and 2022 and provide their thoughts on future of the asbestos/talc litigation and defense efforts to continue to provide appropriate and successful explanations and results.</p>	4:00 – 4:35 p.m.	<p>Losing Sight of What Really Matters: Evaluating Risk vs. Exposure. <i>Michael K. Peterson, MEM, DABT- Gradient Corp.</i></p> <p>Presentation will focus on best practices when evaluating health risks of asbestos exposure. The emphasis will be on common issues found in exposure analyses, including the use of analytical protocols that are not consistent with regulatory standards and/or health benchmarks; assuming asbestiform and non-asbestiform fibers are toxicologically equivalent; and a lack of context for exposure evaluations (e.g., background and other health guideline level comparisons). Presentation will include quick and practical citation guide for interpreting exposure analyses.</p>
2:25 – 3:00 p.m.	<p>Punitive Damages and Regulatory Compliance: When a defendant is in compliance with government regulations and industry-accepted standards should Plaintiffs be able to pursue a claim for punitive damages? <i>Vince Palmiotto - New York</i></p> <p>In recent years, punitive damages have increasingly become an issue for defendants involved in asbestos litigation in the United States. In contexts involving automobile safety, FDA regulations, and environmental regulations when defendants have shown compliance with government regulations, Courts have precluded punitive damages. It logically follows that if asbestos defendants can show the asbestos released into the air from their product could not have been higher than industry-accepted, government-mandated standards, punitive damages should also be precluded.</p>	4:35 – 5:10 p.m.	<p>Review of Relevant Decisions and Case Law <i>Amy Eikel - King & Spalding LLP, Houston, TX</i></p> <p>Update, Analysis and Review of Recent Appellate Decisions</p>
		5:10 – 5:50 p.m.	<p>Talc Depositions: Winning Strategies and Insights <i>Deena M. Crimaldi - O'Toole Scrivo, New York/New Jersey</i></p> <p>Effectively handled depositions provide a strong foundation in defending any case, including those involving asbestos and talc. Solid deposition testimony can lead to favorable settlements, solidify grounds for summary judgment or other motion practice, and lock opponents into a set of facts for trial. Join us to discuss strategies and techniques for maximizing your effectiveness at preparing for, taking, and defending depositions in talc matters in today's remote-based world.</p>
		5:50 p.m.	<p>Adjourn</p>

6:00 p.m. **Cocktail Reception**
Sponsored by: PACE & Hawkins Parnell & Young, LLP

Friday, June 24, 2022

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

8:15 – 8:20 a.m. **Introduction**

8:20 – 9:20 a.m. **ETHICS: “Highs and Lows in Ethics.”**
Laura Kingsley Hong - Tucker Ellis LLP, Cleveland, OH
Cathy Mohan- McCarter & English, Newark, NJ
Mahsa Kashani Tippins – Nashville, TN

Our signature ethics session takes a deep dive into ethics opinions that impacted attorneys in and out of the litigation arena. Among the topics addressed will be the recent ethics opinions relating to undercover investigations, social media posts and statements made in settlement negotiations. The speakers will address thorny legal ethics issues that arise and discuss how attorneys can avoid the pitfalls that befell those before them.

9:20 – 10:00 a.m. **“Defending the Non-Smoking Lung Cancer Claim”**
Theodore Roberts - Womble Bond Dickenson

Never smokers and former smokers with significant periods of cessation and lung cancer are becoming more frequent in the United States and the asbestos litigation. Season plaintiffs’ counsel are seeking out such cases and demanding higher settlement values based on the absence tobacco exposure. Are you ready to defend a lung cancer claim without a significant risk from cigarette smoking? Do you have a true never smoker or a former smoker with a lengthy cessation period? This presentation will review current lung cancer statistics, smoking cessation data and medical literature on alternative lung cancer causes to assist the asbestos litigation practitioner in defending such claims. How and when smoking can be kept in play with lengthy periods of cessation, the impact on synergy and the keys to fact witness and expert depositions will be explored. Modifiable and non-modifiable risk factors for lung cancer will be presented to assist defense counsel in identifying and investigating the alternative pathways to lung cancer causation in the absence of tobacco exposure.

10:10 – 10:25 a.m. **Break**

10:25 – 11:05 a.m. **“How to prepare your Corporate Witness on knowledge of Asbestos hazards**
John Fitzpatrick- Wheeler Trigg

Any defendant's most critical witness. Take it seriously or suffers disaster

11:05 – 11:45 a.m. **Insurance Roundtable: Litigation Perspectives, Expectations and Trends**

Co-Moderator: Michael J. Cahalane - Cetrulo LLP, Boston
Co-Moderator: Christine Hawkins - Hawkins Parnell & Young, LLP, San Francisco
David A. Warren - Resolute Management Inc., Chicago, IL
Madeleine B. Bass - Nationwide Indemnity Company, Boston, MA
Michael Owen - RiverStone, Manchester, NH
Amanda Webber - Allianz Resolution Management, San Francisco, CA
Marsharee Wilcox - Brandywine Group of Insurance & Reinsurance Companies, Philadelphia, PA

The insurance panel will discuss a wide assortment of topics relevant to insured asbestos claims including the tripartite relationship and decision-making, expectations of outside counsel, use of KPI in evaluating performance, and current litigation trends.

11:45 – 1:00 p.m. **Lunch**

1:00 – 1:30 p.m. **US EPA's TSCA Risk Evaluation of Chrysotile Asbestos – Issues to Consider as the Rulemaking Develops**
Lisa A. Bailey, Ph.D. - Gradient

Presentation will focus on issues associated with both the approach and the conclusions of US EPA's risk assessment, as well as implications for the next TSCA analysis (legacy uses). Issues discussed will include exclusion of relevant data sets, reliance on assumptions that may not reflect common exposure assumptions, combining short-term with long-term data, handling of non-detects, and appropriate statistical practices.

1:30 – 2:10 p.m.

In-house counsel perspective: What We've Learned and What we Expect in a Post-2020 World.

*Jennifer Green – Dehay & Elliston
Stan Ball – Vice President and Chief Counsel, Litigation, Eaton Corporation
Charlie Price – Senior Counsel, Litigation, Eaton Corporation*

This panel will review the events of the past and 2022 and provide their thoughts on future of the asbestos/talc litigation and defense efforts to continue to provide appropriate and successful explanations and results.

2:10 – 2:45 p.m.

The Asbestos Case Against Employers: How to Defend Employer Defendants and Make the Case Against a Non-Party Employer.

Cameron Turner – Segal McCambridge Singer and Mahoney, Ft. Lauderdale

More plaintiffs' attorneys are naming employers as defendants in asbestos cases, despite workers' compensation exclusive remedy provisions that would seem to preclude such lawsuits. Furthermore, more cases today involve post-OSHA exposures where a plaintiff's employer owed a duty to protect its employees from asbestos exposure. This presentation will examine how to defend an employer client in an asbestos case, and furthermore, how to point the finger at a non-party employer that failed to protect a plaintiff from asbestos exposure.

2:45 – 3:20 p.m.

An update on Non-Asbestos Related Mesothelioma?

Kevin P. Greene - Willcox & Savage, P.C Norfolk, VA

This presentation is a general overview on particular underlying issues (radiation, somatic mutations, inherited).

3:20 – 3:35 p.m.

Break

3:35 – 4:10 p.m.

Exiting Asbestos Litigation: An Alternative to Bankruptcy

Kip Makuc - Senior Managing Director, PACE Claims Services LLC, Washington, DC

John Bae - Partner, Thompson Hine LLP

Dade Nigro, Managing Director, Global Risk Capital LLC

Everything you always wanted to know about "selling" asbestos liability but were afraid to ask. This panel will examine the process and considerations of ring-fencing and selling corporate defendant asbestos liability to third parties. The panel will discuss the market and key considerations and lessons for buyers and sellers regarding restructuring, valuing, and executing alternative risk transactions.

4:10 – 4:40 p.m.

The Electrical Product Misuse Defense: "Shockingly" Simple

Kate Mercer-Lawson – Wheeler Trigg O'Donnell LLP

Electrical product cases are on the rise and irrationally feared by many. Good news: these cases are actually quite defensible! This presentation will focus on the common-sense and code bases of the misuse defense.

4:40 p.m.

Adjourn

GENERAL INFORMATION

In-House and Insurance Professionals

In-house counsel and insurance claims professionals are eligible for free registration to DALs 2022. In-house counsel are defined as licensed attorneys, who are employed exclusively by a corporate or other private sector organization for the purpose of providing legal representation and counsel only to the corporation, its affiliates and subsidiaries. Insurance claims professionals are defined as being employed by a corporation or insurance company, who spends a substantial portion of his or her professional time hiring or supervising outside counsel in the representation of business, insurance companies or their insureds, associations or governmental entities in civil litigation.

CLE/Claims Adjuster Accreditation

This seminar has been approved for MCLE credit by the State Bar of California for up to 7.5 hours, including 1 hour of ethics credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. Application has been made for continuing education for claims adjusters. Credit availability and requirements vary from state to state; please check the DALs website at dalsconferences.com for the latest information for your state.

Cancellation/Refund Policy

Registrations are non-refundable; however, if you request a refund within twenty-four (24) hours of purchase, DALs may, in its sole discretion, refund or credit your account. All cancellations and requests for refunds must be made in writing to tschorle@dalsconferences.com. Processing of refunds will usually occur within four (4) weeks after the date of the event. All refunds will be processed in the same method that the payment was received. DALs has no obligation to grant any refund requests.

Registrations are non-transferable. Registration does not include access to the On-Demand recording.

Questions

If you have any questions regarding the DALs 2022 Seminar please contact the team at DRI Professional Services, administrative provider to DALs for assistance at any time, info@dalsconferences.com.

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