

American Conference Institute's 14th National Advanced Forum on

ASBESTOS

Claims & Litigation

June 26 – 27, 2013 | The Omni Chicago Hotel on the Magnificent Mile | Chicago, IL

NEWTWISTS ON ASBESTOS CLAIMS ARE HERE! This is a unique opportunity to network with in-house & insurance carriers and learn how they manage expectations with respect to lawsuits/exposure and examples of outside counsel success stories (and where they fell short). Hear from and meet:

Paul Slater
Senior Counsel
General Electric Company

Michael Blair
Vice President, Environmental Claims
General Reinsurance Corporation

Jeffry Koenig
Chief Litigation Counsel
Cytec Industries Inc.

Mary Beth McCarthy
Senior Litigation Counsel
Lehigh Hanson, Inc.

Patrick M. Shine
Managing Attorney/
Senior Director General Counsel's Office
Fireman's Fund Insurance Company

Rick Schlegel
Assistant General Counsel
Exelon

Thomas J. DeLuca, J.D., SCLA (invited)
Mass Litigation Claims Specialist
Zurich North America

Michael J. Sehr
President Emeritus
Resolute Management Inc.

Joseph J. O'Hara, Jr.
Vice President
Associate General Counsel & Secretary
Owens-Illinois, Inc.

Gain key strategies and updates from top in-house professionals, experienced outside counsel, renowned jurists, and medical professionals on:

- Friendly and hostile jurisdictions, the effects of **tort reform**, and what to expect for second half of 2013
- Transparency between **bankruptcy trusts** and tort litigation
- Single fiber, every fiber, low dose, lung cancer, chrysotile and beyond: the evolution of **asbestos medicine** and how the changes affect emerging causation law
- Responding to the volume of **non-malignant** cases
- Current science and claims involving the presence of **asbestiform minerals in talcs** used in product and industrial operations
- **Epidemiology in the courtroom**
- Spotlight on **premise owners, contractors/suppliers**, and the continued expansion of **take home exposure** cases
- Litigating claims involving component part manufacturers: evolving theories of liability for **other manufacturers' products**
- The **Navy cases and equipment manufacturer liability for outside insulation, gaskets & packing**: bolstering your case from discovery through trial
- **Apportioning liability** in jurisdictions with fault allocation
- Key **insurance issues** impacting asbestos coverage
- International: the latest on cooperation with overseas law firms and/or getting U.S. courts to exercise **jurisdiction over foreign companies**

Featuring unparalleled medical insights from:

Andrew Churg, MD
Vancouver Hospital & Health Science Center

Dr Ed Ilgren, MD
DPhil (Oxon), FRCPath (London)
Oxford University

Allan Feingold, MD
South Miami Hospital

Richard Kradin, M.D.
Mass Gen/ Harvard Medical School

Obtain insight as to the perspectives from the Bench. Hear from:

Hon. Eduardo C. Robreno
U.S. Dist. Ct., E.D. Pa.

Hon. Mildred Methvin
U.S. Dist. Ct., M.D. Pa. (recall)

Hon. Joseph M. Hood
U.S. Dist. Ct., E.D. Ky.

Hon. F.A. Gossett, III
U.S. Dist. Ct., D. Neb.

Hon. William Maddux
Cook Cty. Cir. Ct., Ill.

Hon. Steven Brick
Alameda Cty. Sup. Ct., Calif.

Hon. Harry Hanna
Cuyahoga Cty. Ct. of C.P.

Hon. Jo-Lynne Q. Lee
Alameda Cty. Sup. Ct., Calif.

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Now in its 14th installment, ACI's lauded Asbestos Claims & Litigation conference returns to the Magnificent Mile in Chicago. This is the highest level event out there that provides maximum opportunities to network with leading in-house professionals, and helps you keep pace with the hot jurisdictions, case law, new and emerging claims and defendants, and advancements in science and medicine.

Large verdicts...asbestos coverage impact on claims management and handling... hostile courts and drastic differences between jurisdictions... non-traditional defendants including suppliers and retailers... bankruptcy trusts... dying witnesses and representatives... medical and non-malignant cases... effects of tort reform around the country... THE MAELSTROM CONTINUES

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w.tyler@AmericanConference.com

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7:30 Registration and Continental Breakfast

8:00 Co-Chairs' Welcoming Remarks

Ingrid K. Campagne
Partner
Walsworth Franklin Bevins & McCall, LLP

Craig T. Liljestrand
Partner
Hinshaw & Culbertson LLP

8:05 **In-House Corporate and Insurer Panel on Financial & Legal Decisions, Managing Claims, Lowering Defense Costs, and Settlement Negotiations**

Panel 1 | 8:05 – 9:00

Paul Slater
Senior Counsel
General Electric Company

Michael Blair
Vice President, Environmental Claims
General Reinsurance Corporation

Jeffrey Koenig
Chief Litigation Counsel
Cytec Industries Inc.

Mary Beth McCarthy
Senior Litigation Counsel
Lehigh Hanson, Inc.

Jennifer C. Hecker, Esq.
Vice President; Claims, Accounting
& Liability Management
Swiss Re America Holding Corporation

Panel 2 | 9:00 – 9:55

Rick Schlegel
Assistant General Counsel
Exelon

Patrick Shine
Managing Attorney/Senior Director
Fireman's Fund Insurance Company

Michael J. Sehr
President Emeritus
Resolute Management Inc.

Thomas J. DeLuca, J.D., SCLA (*invited*)
Mass Litigation Claims Specialist
Zurich North America

George Ammon
Vice President/Claims Expert
Swiss Re

Panel 1 & 2 Moderator:

Craig R. Waksler, Esq.
Member
Eckert Seamans Cherin & Mellott, LLC

Corporate Non-Insurer

- Shrinking legal budgets and doing more with less
- Increasing involvement of carriers and the impact on litigation
- Budget limitations on settlement opportunities
- Alleviating rising transactions costs
- Factoring in national and local valuation discrepancies and national management of cases
- Transitioning claims representatives, clients and associates from claims administration/settlement mode to actual litigation of serious cases

Insurer

- Addressing the increasing use by insurers of outside billing vendors/ auditors who refuse to pay for reasonable activities by the attorney/ paralegals
- Is the products/non-products distinction driving how claims are made or litigated in underlying tort litigation and how they are presented to insurers?
- Getting carriers and plaintiff's counsel to agree to language
- Dealing with multiple clients/carriers with varying guidelines
- When an "injury" occurs for purposes of coverage
- The medical aspects of when an injury occurs
- Trigger - which theory of policy trigger is appropriate (exposure, injury in fact, manifestation, continuous)
- Section 524g and elimination of contribution rights among insurers
- A word about the rise of intentional tort or quasi intentional torts against employers used to defeat the workers comp bar

9:55 Morning Break

Looking Back and Ahead: Emerging Claims and Parties, Key State Nuances, Drastic Differences Between Friendly and Hostile Jurisdictions, the Effects of Tort Reform, and What to Expect for Second Half of 2013

Mark A. Behrens
Partner
Shook, Hardy & Bacon L.L.P.

Craig T. Liljestrand
Partner
Hinshaw & Culbertson LLP

Jayme C. Long
Partner
McKenna Long & Aldridge LLP

This session will offer an in-depth examination of recent and emerging trends in asbestos claims and litigation. It will explore recent developments impacting plaintiffs, defendants, insurers and counsel, recent cases of importance and what this will mean in terms of strategizing for the year ahead. With ample time for questions, this session will set the tone for an interactive and insightful two days.

- Who are the new defendants?
 - Which defendants are exposed to risk for future claims?
- How will tort reform efforts impact the future of asbestos litigation
- Establishing burden of proof and proving reasonable inferences to evidence
- Non traditional defendants
- Which states are good and bad to file in?
- Combating forum shopping
- Removal to federal court and diversity jurisdiction
- How cases are referred out to a different jurisdiction based on settlement history, verdict history, etc.

Madison County/Cook County IL

- Forum Issues
- Trial Docket and Case Management Issues

California

- Judicial budget crisis
 - Reduction of court services
 - Transfer of costs to litigants
- Impact of Elimination of General Orders
- Growth of published asbestos-related opinions
- Trends in filings
 - Increasing number of plaintiff firms
 - Increased filings in non-traditional venues

Pennsylvania

- *Frye* updates
- Review of dramatic changes in asbestos litigation
- Procedural changes
 - New Administrative Judge
 - New General Order
- Reverse bifurcation
- Permissible venue law
- Pennsylvania's decision in the *Betz* case and its impact on the every fiber theory and *Frye* hearings
- Workers compensation immunity
 - New class of defendants?

Bankruptcy Filings, Confirmations & Estimations and the Transparency Between Bankruptcy Trusts and Tort Litigation

William Mahoney
Partner
Segal McCambridge Singer & Mahoney

Scott F. Griffith
Partner
Rawle & Henderson LLP

Mark A. Wisniewski
Principal
Kitch Drutchas Wagner Valitutti & Sherbrook

Chris Harnett
Partner
Archer Norris

Michael Drumke
Partner
Swanson, Martin & Bell, LLP

Bankruptcy Trusts

- Aggregate numbers on trust payouts
- Trust payouts by disease
- How the trust payouts influence US claiming practices
- Trust payouts and international claiming practices
- Trust confidentiality terms that were added without bankruptcy court approval
- Examples of action and inaction by the US Trustee's Office as to 524(g) trusts
- The scope of bankruptcy court injunctions and due process
- Latest decisions in insurer standing and effects on types of plans being proposed.

Disclosures/Discovery

- Bankruptcy Trust Claim Disclosures
 - the various approaches by jurisdiction
 - the nature of the information which must be disclosed
 - when the information must be disclosed
 - challenges by the plaintiff's bar as to use of such information once obtained
 - Following the lead in jurisdictions such as Massachusetts and allowing coordinated trust discovery
 - Information such as product identification
 - The fight over personal medical information in trusts
 - Trust distribution procedures
 - Role of plaintiffs who represent the creditors and how this impacts obtaining approval of the bankruptcy plan
 - Defense strategies for coping with plaintiff's withholding trust claims until litigation is over

Networking Lunch for Speakers and Delegates

Single Fiber, Every Fiber, Low Dose, Lung Cancer, Chrysotile and Beyond: The Evolution of Asbestos Medicine and How the Changes Affect Emerging Causation Law

Andrew Churg, MD
Professor of Pulmonary Pathology
Consultant Pathologist
Vancouver Hospital & Health Science Center

Dr Ed Ilgren, MD, DPhil (Oxon), FRCPath (London)
Honorary Member
Childhood Cancer Research Group
Oxford University

Richard Kradin, M.D.
Pulmonary/Critical Care Unit
Department of Pathology
Massachusetts General Hospital
Associate Professor of Medicine and Pathology
Harvard Medical School

James N. Sinunu
Partner
Sinunu Bruni LLP

Thomas D. Allen
Partner
WEINBERG WHEELER HUDGINS GUNN & DIAL

Craig A. Woods
Partner
Mayer Brown LLP

Single Fiber

- Liability with exposure to single fiber
- Examining scientific evidence/theories to support single fiber theory
- Determining whether single fiber theory is admissible under *Frye*
- How courts are split on accepting single fiber theory as evidence
- Examining recent case law and its impact on asbestos litigation
- Epidemiology studies and how this affects plaintiff's reliance on the single fiber theory
- Putting more pressure on plaintiffs to have better causation experts

Every Fiber

- Recent decisions including *Estate of Hicks* and determining the course of asbestos litigation
- Impact of every fiber theory and its effect on certain class of defendants
- Calling into question theory of liability
- Scientific evidence supporting every fiber theory

Low Dose

- Recent case law on subject of low dose/mesothelioma
- Identifying the defendants that are exposed to litigation in low dose cases
- Low dose exposures and how it may result in mesothelioma
- How plaintiffs are introducing experts to support low dose exposure and resulting mesothelioma
- How much exposure is enough?

Lung Cancer

- What is the connection between lung cancer and asbestos exposure?
- The latest medical research on asbestos and its impact on lung cancer
- Bankruptcy trust as an important driver
 - Bankruptcy trust paying out on lung cancer claims
- Verdict form issues

Chrysotile

- What is the connection between chrysotile and mesothelioma?
- Putting the pressure on manufacturers of friction products such as brakes, clutches, etc.

Genetics

- Early stages of research and what to expect in the future
- Ascertain the actual causes of a particular mesothelioma
- Genetic mutations

Smoking-Related Fibrosis

- Confounding Role of Smoking-Related Fibrosis in the Clinical Diagnosis of Pulmonary Asbestosis

3:15 Afternoon Break

3:25 Responding to the Volume of Non-Malignant Cases

Dawn Dezii
Partner
Margolis Edelstein

Anna M. DiLonardo
Shareholder
Marshall Dennehey Warner Coleman & Goggin

- What is the future of non-malignant claims?
- Handling non-malignant versus non-impaired claims
- Nonmalignancies and the related medical conditions
- Defending a case related to nonmalignancies

4:10 Current Science and Claims Involving the Presence of Asbestiform Minerals in Talcs Used in Product and Industrial Operations

Ed Hugo
Partner
Brydon Hugo & Parker

Jennifer Pierce, Ph.D., M.S.
Supervising Health Scientist
ChemRisk

Kay Baxter
Partner
SWETMAN BAXTER MASSENBURG, LLC

5:00 Epidemiology in the Courtroom: Understand and Utilize the Scientific Method, the Published Literature and Your Scientific Witnesses

Allan Feingold, MD
Medical Director
Department of Occupational and Environmental Medicine
South Miami Hospital

- The difference between cause and mechanisms
- How do you prove or disprove causation
- Examples from asbestos and tobacco litigation

6:00 Day One Adjourns

Day Two – Thursday, June 27, 2013

7:30 Continental Breakfast

8:00 View From the Plaintiffs' Bar on Litigating Asbestos Claims

Joseph W. Belluck
Founding Partner
Belluck & Fox, L.L.P.

Ross Stomel
Partner
SHRADER & ASSOCIATES, L.L.P.

- Who are the newer viable defendants?
- Facing non-traditional defendants
- How federal and state reforms will impact plaintiff's attorneys

- Why are certain cases moving to trial? Identifying the factors that determine which case go to verdict
- The migration of claims: where they are going and why?
- An analysis of notable verdicts
- Changing demographics: the increase in very old and very young mesotheliomas
- Managing Defendants in Discovery
- Issues of settlement and Medicare
- Landscape in the Federal System and MDL

9:00

View From the Bench: Judges Speak Out on Current Litigation Trends, Successful Plaintiff Claims and Defense Strategies

The Honorable Eduardo C. Robreno
United States District Court
Eastern District of Pennsylvania

The Honorable E.A. Gossett, III
United States District Court
District of Nebraska

The Honorable Mildred E. Methvin
United States District Court
Middle District of Pennsylvania (recall)

The Honorable Joseph M. Hood
United States District Court
Eastern District of Kentucky

The Honorable William Maddux
Illinois Cook County Circuit Court

The Honorable Steven Brick
Alameda County Superior Court

The Honorable Harry Hanna
Presiding Judge of Asbestos Litigation
Cuyahoga County Court of Common Pleas

The Honorable Jo-Lynne Q. Lee
Asbestos Department Judge
Alameda County Superior Court

Co-Moderators

Ingrid K. Campagne
Partner
Walsworth Franklin Bevins & McCall, LLP

Joseph J. O'Hara, Jr.
Vice President
Associate General Counsel & Secretary
Owens-Illinois, Inc.

10:30

Morning Break

10:40

Spotlight on Premise Owners, Contractors/Suppliers, and the Continued Expansion of Take Home Exposure Cases

John R. Osburn
Shareholder
Bullivant Houser Bailey PC

Dean A. Olsen
Partner
Morris, Polich & Purdy

Edward A. Smallwood, Esq.
Partner
Swartz Campbell, LLC

Christopher T. Chocheles
Member
Sher Garner Cahill Richter Klein & Hilbert, LLC

Premise Owners

- Duty owed to plaintiff
- Legal bases for liability
- Code and regulation violation, State Labor Laws and the impact of these on liability analysis
- Determining whether liability of premise owner extends beyond premises
- Indemnification issues – Contractual and Common Law liability of contractors
- Finding the viable historian

Contractors/Suppliers

- Contractors liability under Labor law or code violations
- Sources of funds to cover damages – Indemnification from manufacturers and Insurance coverage
- How the classification of a contractor as an employee impacts liability

Take Home Exposure – emerging law regarding take-home exposure

- Reviewing recent case law
 - Foreseeability vs. Duty – a state by state review of the analysis taken by the courts.
- As law changes/evolves over time, what is the standard for recovering against premise owners
- How jurisdictions differ in its approach to take home exposure cases
- How courts may be applying public policy of other states
- Discovery process: looking at alternative exposures

11:40

Litigating Claims Involving Component Part Manufacturers: Evolving Theories of Liability for Other Manufacturers' Products

Julie E. Chaffin
Partner
Forman Perry Watkins Krutz & Tardy LLP

Raymond R. Fournie
Partner
Armstrong Teasdale

Alice Sacks Johnston
Partner
Obermayer Rebmann Maxwell & Hippel LLP

- Impact of the *O'Neil* decision
 - State by state distinctions and the different/same standards to apply
 - Relying on product liability law in that each company is not liable for another company's product
- Assessing whether the manufacturer has a duty to warn
- Determining whether the equipment manufacturer is responsible for another's equipment containing asbestos
- Evolution and changes to the scope of liability
- How the equipment manufacturer recommending external products, replacement lining, or external insulation be placed on the equipment affects liability; design defect claims

- Examining foreseeability
 - Defendant knew or should have known replacement product containing asbestos would be used on equipment
 - How some jurisdictions do not make foreseeability an issue unless the manufacturer specified the product be placed onto the equipment

12:35 **The Navy Cases and Equipment Manufacturer Liability for Outside Insulation, Gaskets & Packing: Bolstering Your Case from Discovery Through Trial**

Barry N. Mesher
Partner
Sedgwick LLP

Donald R. Kinsley
Director
Maron Marvel Bradley & Anderson LLC

Michael J. Pietrykowski
Partner
Gordon & Rees

[Navy Cases in 2013](#)

- Evaluating the liability of the empty chair, the navy itself and the bankrupt companies
- What did the sailor know? What did the shipyard worker know?
- Theories of liability regarding external insulation
- The replacement gasket and packing
 - What the experts are saying
 - What plaintiffs are saying
 - What does this mean for a MSJ? At trial?
- Sophisticated user and learned intermediary – Who knew more than the Navy?
- How will maritime law apply in deciding MSJs in “Navy” cases in the MDL?
- The Government Contract Defense.

[The Navy Case in Federal Court](#)

- How and why are Navy cases in Federal Court?
- Does maritime law apply?
- Choice of law issues
- Trial prep and trials in Federal Court

[The Future for Navy Against Equipment Manufacturers](#)

- Filing trends for the Navy case
- Frequency of mesothelioma diagnoses from “later year”
- X & Y generations view of the Navy and Navy case against equipment defendants

1:30 **Networking Lunch for Delegates and Speakers**

2:30 **Apportioning Liability in Jurisdictions with Fault Allocation: Sorting Out Verdict Form and Other Complexities Given That Today’s Cases Name Dozens of Defendants as Liable for Exposure**

Nicholas P. Vari
Partner
K&L Gates

Joseph J. Welter
Partner
Goldberg Segalla LLP

Steven D. Smelser
Partner
Yukevich Cavanaugh

- What is apportionment of liability and how does it work
- How apportionment of liability can affect the strategy for litigation and trial
- Whether non defendants can be put on the jury verdict form and what standard of proof is necessary
- Where to find the alternate exposure evidence
- How to get the evidence admitted at trial
- The last defendant standing and how this impacts joint and several liability and fault apportionment jurisdictions – how to take advantage of the settling defendants
- How the type of defendant affects liability and apportionment – not all defendants are created equal
- Nuances with apportionment of fault with consideration to negligence and strict liability claims

3:25 **Trigger, Allocation, Non-products, Deductibles, Number of Occurrences, Asbestos Reserves, and Beyond: Key Insurance Issues Impacting Asbestos Coverage**

Gary Svirsky
Partner
O’Melveny & Myers LLP

Robert M. Horkovich
Managing Partner
Anderson Kill & Olick, P.C.

Philip R. Matthews
Partner
Duane Morris LLP

Robert D. Goodman
Partner
Debevoise & Plimpton LLP

- Overview of key insurance issues (trigger, allocation, products vs. non-products, deductibles, number of occurrences, responsibility for insolvents and blue sky)
- Key decisions from last 12 months affecting asbestos coverage
- Major property & casualty insurers and their asbestos reserves
- Key practice pointers when settling asbestos coverage (options include: buybacks, lump sum, payment over time, coverage-in-place, and interim funding agreement)

4:30 **Conference Ends; International Session Begins**

Post-Conference International Session:

Thursday, June 27, 2013

4:30 – 6:00 PM

Asbestos Claims Against Foreign Companies – The Latest on Cooperation with Overseas Law Firms and/or Getting U.S. Courts to Exercise Jurisdiction Over those Foreign Companies

Dawn Dezii
Partner
Margolis Edelstein

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The Honorable F.A. Gossett, III
The Honorable William Maddux
The Honorable Steven Brick
The Honorable Joseph M. Hood
The Honorable Jo-Lynne Q. Lee

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Asbestos Claims Against Foreign Companies

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