18th ANNUAL SPRING CLE MEETING

IT’S A SMALL WORLD AFTER ALL—
FROM NANOTECHNOLOGY TO GLOBAL
WARMING—A QUANTUM LEAP FROM
BUCKYBALLS TO CARBON FOOTPRINTS

ARIZONA BILTMORE RESORT & SPA
PHOENIX, AZ
APRIL 2-4, 2009

Presented by the
American Bar Association’s
Tort Trial & Insurance Practice Section’s
Toxic Torts and Environmental Law Committee
PROGRAM AGENDA

DAY ONE – THURSDAY, APRIL 2, 2009
3:00-6:00 p.m.  REGISTRATION

4:00-6:00 p.m.  CHAIR’S RECEPTION FOR NEW & YOUNG MEMBERS (POOLSIDE CABANA)
The Toxic Torts & Environmental Law Committee (TTEL) leadership would like to welcome all first-time Spring Meeting attendees and attorneys who are in their first ten years of practice to meet our distinguished speakers and moderators.
SPONSORS:  Harris Beach PLLC
            Kutak Rock LLP
            Williams Kastner

6:00-8:00 p.m.  WELCOME RECEPTION
SPONSORS:  Alston & Bird LLP
            Beveridge & Diamond
            Cooley Manion Jones LLP
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            Davies McFarland & Carroll, P.C.
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            Duane Morris LLP
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            Lieff Cabraser Heimann & Bernstein, LLP
            McCarthy Tétrault LLP
            Ropers Majeski Kohn & Bentley
            Schiff Hardin LLP
            Whyte Hirschboeck Dudek S.C.
            Willms & Shier Environmental Lawyers LLP

8:00 p.m.  DINNER ON YOUR OWN

DAY TWO – FRIDAY, APRIL 3, 2009
7:00 a.m.-12:30 p.m.  REGISTRATION
7:30 a.m.-8:00 a.m.  CONTINENTAL BREAKFAST
SPONSOR:  MedLegal Consulting Source
8:00 a.m.-8:05 a.m. **WELCOME**
Christopher S. Marks, Esq.  
Chair, TTEL Committee  
*Williams Kastner*  
Seattle, WA
Timothy W. Bouch, Esq.  
Chair, ABA/TIPS  
*Leath, Bouch, Crawford & von Keller, L.L.P.*  
Charleston, SC

8:05 a.m.-8:10 a.m. **OPENING REMARKS**
Stanley Goos, Esq.  
Program Chair, TTEL Committee Spring Conference  
*Harris Beach PLLC*  
New York, NY

8:10 a.m.-9:10 a.m. **A NEW FRONTIER: THE ETHICS OF GENETIC TESTING**
As new techniques and technologies are developed for performing various genetic tests, increasingly complex ethical implications and issues are raised for counsel by the availability of these new forms of information. For example, Cytokine testing is a form of DNA testing that is reported to determine with remarkable certainty whether an individual was physically injured from exposure to benzene, lead, or hexavalent chromium. In addition to these toxic substances, it is believed that similar testing can be developed for other toxic substances, such as asbestos. Proponents of the revolutionary technology claim it could be used not only to resolve toxic tort personal injury claims more efficiently and effectively, but also for improving safety and maintaining the health of workers. Skeptics raise concerns of admissibility and reliability, as well as the potential for abuse of plaintiff and employee privacy rights and genetic discrimination. This panel will discuss the myriad ethical considerations concerning genetic testing in both the civil litigation and workplace context following the passage of the Genetic Information Nondiscrimination Act of 2007.

**MODERATOR:**  Michele A. Powers, Esq.  
*Alston & Bird LLP*  
Los Angeles, CA

**SPEAKERS:**  Troy D. Chandler, Esq.  
*Williams Kherkher, LLP*  
Houston, TX
REACHING ACROSS THE 49TH PARALLEL: THE ORIGINS AND TRANSFORMATION OF CANADA/U.S. ENVIRONMENTAL DISPUTES

Environmental disputes across the 49th parallel have recently escalated legal friction between parties in the United States and Canada. In 1909 Canada and the U.S. signed the Boundary Waters Treaty. Thereafter, the investigation and reporting of cross-boundary environmental harm and breaches came under the purview of the International Joint Commission (Canada/U.S.) and North American Commission on Environmental Cooperation (Canada/Mexico/U.S.). Until a few years ago, Canada/U.S. cross-border environmental disputes were by-and-large resolved amicably—through negotiation or diplomacy. More recently, parties have taken their disputes to the Courts. This one hour session will briefly analyze the history of U.S./Canada environmental dispute resolution. Then, our speakers will discuss several cases where parties have sought relief from the Courts to exercise jurisdiction across the 49th parallel.

MODERATOR: Marc McAree, Esq.
Willms & Shier Environmental Lawyers LLP
Toronto, Canada

SPEAKERS:
Dr. Shi-Ling Hsu
Associate Professor and Associate Dean for Special Projects, University of British Columbia Faculty of Law
Vancouver, British Columbia

Richard A. Du Bey, Esq.
Short Cressman & Burgess PLLC
Seattle, WA
Barry Appleton, Esq.
Appleton & Associates International
Lawyers
Toronto, Canada and Washington, D.C.

10:10 a.m.-10:25 a.m. BREAK
SPONSOR: LBG-Guyton Associates

10:25 a.m.-12:05 p.m. KRYPTONITE II
The United States District Court District of Arizona has ruled that Plaintiff’s expert may testify about whether or not kryptonite has caused illness in plant workers and community members who have worked around and consumed water allegedly contaminated with kryptonite, respectively. This panel will simulate expert testimony and Federal jury assessment of the testimony with regards to issues of general and specific causation in a toxic tort case. You will have an opportunity to view the jury deliberations through closed circuit television.

MODERATOR: Sharon Caffrey, Esq.
Duane Morris LLP
Philadelphia, PA

SPEAKERS: Kevin Colbert, Esq.
Houston, TX

Robert Komitor
Levy Phillips & Konigsberg
New York, NY

James D. McCluskey, M.D., M.P.H.
University of South Florida Center for Environmental and Occupational Risk Assessment and Management
Tampa, FL

Judge Cynthia Rufe
U.S. District Court (E.D. PA.)
Philadelphia, PA

Dr. Howard Sandler
Sandler Occupational Medicine Associates, Inc. (SOMA)
Melville, NY
12:05 p.m.-12:35 p.m.  JURY DELIBERATION  
SPONSOR:  

1:00 p.m.-5:00 p.m.  AFTERNOON ACTIVITIES  
Golf  (Ticketed Event)  
SPONSOR:  

Stonecreek was designed by renowned architects Arthur Hills & Associates. Their traditional links-style layout was named for the stone “creek” hazard that comes into play on fifteen holes. Featuring beautiful, rolling fairways, stonecreek Golf Club offers a challenging and fun golf experience for players of all calibers.

Frank Lloyd Wright Museum Tour  (Ticketed Event)  
Come and explore the great masterpieces of this architectural genius on the Frank Lloyd Wright Insights Tour. This 90 minute tour takes place in Taliesin West in Scottsdale, AZ, the international headquarters for the Frank Lloyd Wright foundation. You will see the newly restored living quarters and the dramatic Taliesin West living room (called the “Garden Room” by Wright) are the highlights of the Insights Tour. This tour also includes all of the elements of the Panorama Tour. The living room was the social gathering place for Wright, and the many famous guests he entertained. It is entered through a typically Wrightian low entryway ceiling, stone-wall space which opens to a 56-feet long by 34-feet wide room linked to the garden, and bedroom wing by expansive windows. Visitors sit in Wright-designed furniture and experience firsthand the drama of being a guest in Wright’s famous home.

Hike Piestewa Peak  (No Charge)  
Join us for a 1,190 foot climb to the top of the Phoenix Mountains and take in fantastic views from the 2,608 foot summit of Piestewa Peak. Hikers should bring appropriate footwear, drinking water and sun protection.

Horseback Riding  (Ticketed Event)  
Come and experience the ride of a lifetime as you ride through the panoramic vistas of Arizona’s Sonoran Desert. You will venture through the AZ hidden canyons on your horseback riding vacation, over rugged mountains. Your guide will tell of the abundant plant and animal life. You will feel the legacies left behind by Cochise, Geronimo, Wyatt Earp and the ancient Hohokam. You’ll hold the spirit of the famous and nameless cowboys, soldiers, pioneers, outlaws and Indians who crossed many of the trails you will be riding. Hear the coyote call and feel tall Saguro Cactus gazing upon you as we tell of the colorful history, the lost gold mines and
the mysteries of the Sonoran Desert. Transportation and boxed lunch will be provided.

**Sonora Desert Jeep Tour** (Ticketed Event)
Join our guides as we explore the magnificent flora and fauna of the springtime desert. For those attending, please wear comfortable, casual clothing with flat, closed-toe shoes.

5:00 p.m.-7:00 p.m. **COCKTAIL RECEPTION—ALL ATTENDEES WELCOME**
**SPONSORS:**
- DecisionQuest
- Matson, Driscoll & Damico

7:00 p.m.-10:00 p.m. **DINNER—THE BILTMORE RESORT (TICKETED EVENT)**
**SPONSOR:**
- Sandler Occupational Medicine Associates, Inc. (SOMA)

**KEYNOTE SPEAKER:**
- Tracey A. LeBeau, Esq.
  *Red Mountain Tribal Energy*
  Phoenix, AZ
  “Notes from a Native Woman in the Renewables Patch”

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**DAY THREE – SATURDAY, APRIL 4, 2009**

7:30 a.m.-8:00 a.m. **CONTINENTAL BREAKFAST**
**SPONSOR:**
- Merrill Legal Solutions

7:30 a.m.-8:00 a.m. **TOXIC TORT & ENVIRONMENTAL LAW COMMITTEE BUSINESS/VICE CHAIRS’ MEETING**
All attendees welcome.

8:00 a.m.-9:00 a.m. **“WHY IS THERE AIR?”: INTERSTATE AIR QUALITY ISSUES/LITIGATION**
The past year has seen significant litigation pertaining to regulations that affect interstate air quality. The panelists will discuss issues of current interest, including litigation over emissions of particulate matter, oxides of nitrogen and sulphur dioxide from coal burning electric generating facilities/utilities that impact air quality in surrounding states; greenhouse gas emissions/global warming; and developing issues including appellate litigation involving national air quality regulations relating to mercury, ozone and new source review.
SIZE DOES MATTER: THE IMPACT OF NANOTECHNOLOGY ON HUMAN HEALTH AND THE ENVIRONMENT

Nanotechnology-based materials are gaining in commercial and consumer use. Nanomaterials contain novel properties which enhance electronics, cosmetics, drugs, paints, cleaners, automotive and medical products. An ever-growing body of research into nanotechnology's potential environmental, human health, and safety effects demonstrates the need for more resources, for coherent risk-related research strategies and for a strong regulatory presence from FDA, EPA and other agencies. In the wake of alarmist headlines which appeared in the New York Times, Boston Globe and Washington Post that Carbon Nanotubes may be “as risky as asbestos” concerns abound about the latent effects to human health and the environment of nanobased materials. This panel will examine the debate over nanotechnology-based products and their risk for human health effects, environmental impacts, the current state of scientific knowledge and the current regulatory climate that is tasked with ensuring the health and safety of the public and the environment.
Dr. Kristen Kulinowski  
*Faculty Fellow in the Department of Chemistry, Rice University*  
*Director for External Affairs for the Center for Biological & Environmental Nanotechnology (CBEN)*  
Houston, TX

Dr. Fionna Mowat  
*Principal Scientist in the Health Sciences Practice, Exponent*  
Menlo Park, CA

Stephen B. Ruddy, Ph.D.  
*Senior Director, Pharmaceutical Development*  
Élan NanoSystems  
King of Prussia, PA

10:00 a.m.-10:15 a.m. **BREAK**  
**SPONSOR:** ECC Horizon

10:15 a.m.-11:15 a.m. **SIGNATURE INJURY AND CAUSATION EXPERT:**  
**IS THERE A CAUSATION HURDLE AT ALL?**  
Is there such a concept as a signature disease such that the mere incidence establishes general causation? The traditional response has been “yes” and the most well known example lies in the incidence of pleural mesothelioma as it relates to exposure to asbestos. However the incidence of other forms of mesothelioma and the increasing frequency of bystander or domestic exposure history and a debate over the rate of idiopathic disease continues to fuel the debate of whether there are, in fact, signature diseases that will relieve the burden of general causation. If there are signature diseases, what types of diseases and exposures fall into this category? This panel, oriented towards toxic tort litigation practitioners and persons with an interest in the medical science of causation, will debate both the concept of and distinguishing characteristics of “signature diseases” with a primary focus on a discussion of leukemia and lymphomas as they may be related to exposure to benzene and the distinctions between pleural and peritoneal mesothelioma and under what circumstances these diseases can be attributed to exposure to a toxic exposure.
11:15 a.m.-12:15 p.m. THE GREENING OF MEXICO? MEXICAN ENVIRONMENTAL LAW AND POLICY FOLLOWING TWO DECADES OF NAFTA

Has the effect of NAFTA on environmental issues in Mexico been positive? Mexican environmental laws have changed significantly since 1993 and, in some instances, are now more stringent than US environmental laws. Some major water rights disputes have been resolved. At the same time, NAFTA may have created new environmental issues felt along the border such as those regarding air emissions and transport of hazardous substances arising from increased cross-border trucking. This panel will discuss how NAFTA has influenced Mexican environmental laws and issues and offer some predictions about future trends.
Mauricio Llamas, Esq.
Environmental Law Mexico, S.C.
(EnvironLaw)
Mexico City, Mexico

12:30 p.m.  CLOSING REMARKS
Stanley Goos, Esq.
Harris Beach PLLC
New York, NY