

# FDCC E Newsletter

News from and about your fellow members and friends.

January 2017

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## From the President

Dear Federation Friends,

Happy New Year to you and your families and I can tell you that 2017 is going to be a great year for the FDCC! Our year kicks off on March 7th in Charleston, America's #1 destination city.

Needless to say, Carol Anne and I are excited about having the Winter Meeting in Charleston. Michael and Lee Scott have gone overboard on the planning and even though this is a shorter meeting, the quality will far exceed the quantity.

I know many of you are already planning your trip to our Annual Meeting in Montreux, Switzerland. Ned and Sue Currie have a fabulous meeting in the works for you. You will also have a very unique opportunity to attend the first ever FDCC International Insurance Symposium. This Symposium is being held in conjunction with AIDA Switzerland and is being planned by Christian Lang, Chairman of AIDA's Swiss Chapter and Rich Traub, Chairman of AIDA's U.S. Chapter. This is your chance to meet and learn from the leaders in the Swiss insurance market. Plan now to spend July 24th with us in Zurich for this exciting collaborative opportunity with AIDA.

[Read Full Story](#)



**Time is running out to register for this year's  
Winter Meeting in Charleston!**

Seats and hotels are filling up fast so if you've been waiting to register, now is the time to reserve your seat!

[Click here](#) to see the registration brochure, chock full of historical bites, tour descriptions, restaurant recommendations and other great ideas for your planning. We're confident after reading through it, you'll not only want to sign up for everything, you'll be planning your return

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trip! After all, Charleston was voted the #1 City in the World by Travel + Leisure Magazine!

**[Register Now!](#)**



**Please join us in Charleston for the first annual FDCC Professional Women's Forum Event on Sunday, March 5, 2017!**

This one-day event includes a presentation by Marianne Trost, The Women Lawyers Coach, about business development and self-advocacy skills, as well as an inspiring tribute by Tom Hurney to his grandmother, Lorraine Wall Hurney, who graduated from law school in 1938. The sessions are followed by a catered networking lunch for the PWF members to talk about how we can bring more value to one another through the FDCC. In the afternoon, we'll enjoy horse-drawn carriage rides through Charleston starting at 1:15 and will end with drinks at the rooftop bar at the Restoration Hotel. The sessions and lunch will be hosted at Jay Davis' firm, Young Clement Rivers, in Charleston. The program and lunch costs \$149; the carriage ride (\$30) and drinks are not included. Space is limited to the first 50 registrants so please sign up soon!

For more information, check out the [brochure](#) on the FDCC website.

**[Register Now!](#)**



**Selecting and Preparing a Corporate Designee for Deposition and Trial WEBINAR**  
**January 26 at 12noon EST**

Don't miss this informational and entertaining webinar!

**REGISTER**

Mark Brancato (Corporate Counsel), Brad Box (Defense Counsel), and Clyde Richard, Ph.D., P.E. (Engineering Expert Witness) will team up as a panel to share their thoughts and experience in working with corporate designees through the challenging environment of deposition and trial testimony.

**New Members**

**Thomas Barlow**  
International Process Plants and Equipment Corp.  
Princeton Junction, NJ

**Kari Jacobson**



**MONTREUX HOTEL INFORMATION UPDATE**

## Meet the Staff

*Get to know your staff!  
In the spirit of the new year,  
we would like to share  
our goals!*



[Kimberly LaBounty, Exec. Director](#)  
"More YOGA!"

[Regina Legoo, Meeting Planner](#)  
"Every year I have the same goal - to stay close to friends. As a planner my travel schedule keeps me away from home a lot and staying connected takes real effort."

[Debbie Boehm, Membership Services Coordinator](#)  
"My goal for 2017 is to eat healthy, exercise more and lose weight."

[Jacqueline Peiffer, Communications Coordinator](#)  
"Try a new recipe every week - I mainly cook ol' reliable recipes or just improvised something depending of what I have in the freezer and fridge but now is the time to try new things!"

[Liz Tinley, Continuing Education Coordinator](#)  
"In the new year, I would like to read more biographies!"

[Sarah White, Accountant](#)  
"My goal for January is to get outside as much as possible regardless of the weather."

## Federation Publications

[E-Newsletter](#)



Many of you have expressed a desire to make your Montreux Palace reservations in advance of the meeting registration. In response, starting now the hotel will take your reservations. The convention team letter you received at the end of November contains all the current information we have been provided with.

[Read Full Story](#)

## Federation Triumphs



[Scott M. Salter](#) Starnes Davis Florie, LLP, Birmingham, AL, recently obtained a judgment from the Supreme Court of Alabama affirming summary judgment in a medical malpractice action. The action involved claims of negligence against an obstetrician based on a shoulder dystocia that occurred at birth resulting in a permanent brachial plexus injury. The action alleged the obstetrician

failed to properly take into account that the mother had encountered a shoulder dystocia with a previous birth. The action claimed that because of the prior shoulder dystocia the obstetrician should have performed a cesarean section and not proceeded with a vaginal delivery. On motion for summary judgment, Salter argued that the plaintiff's expert failed to establish a breach of the standard of care against the defendant obstetrician and that alternative claims against the defendant physician's partner, who was not originally named in the action, were barred by the statute of limitations and could not be amended into the action. The trial court granted summary judgment which was affirmed by the Supreme Court.



[John Kastner](#), Gust Rosenfeld, PLC, Tuscon, AZ, representing ELM, was recently unanimously affirmed by the Arizona Supreme Court in *US Airways, Inc. v. Qwest Corp.*, 238 Ariz. 413, 421, 361 P.3d 942, 950 (Ct. App. 2015), review granted in part (Sept. 20, 2016), *aff'd* in part (Nov. 23, 2016), opinion ordered depublished in part, No. CV-16-0027-PR, 2016 WL 6892136 (Ariz. Nov.

23, 2016). The Arizona Supreme Court unanimously affirmed the Court of Appeals that an underground utility locator was not liable for economic damages from a service interruption. The Supreme Court's ruling also affirmed the Court of Appeal's dismissal of a \$2 million dollar plus claim against One Call Locators, Ltd., dba ELM Locating & Utility Services ("ELM"). The Court of Appeals had previously found ELM owed no duty to US Airways because US Airways suffered only economic harm, not physical harm, as a result of the service interruption, and affirmed the trial court's judgment in favor of the locator. The Supreme Court also depublished the portions of the Court of Appeals ruling, which held Qwest owed a duty to protect against economic harm. Although the Supreme Court did not grant Qwest's petition for review on this issue, at oral argument the Supreme Court questioned whether the Court of Appeals correctly decided the issue. It appears that the Supreme Court, while not granting Qwest's petition on the issue, depublished that part of the Court of Appeals decision to reduce or eliminate any precedential value. Rich Doyle, partner at Doyle Low, was co-counsel for ELM during the trial court and Court of

[Insights](#)

[Federation Flyer](#)

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### Stay Connected



Appeals phases. View the Arizona Supreme Court's decision here and the Court of Appeals decision here.



[William F. Murphy](#), Dillingham & Murphy, LLP, San Francisco, CA, recently defeated a putative class action claim under the Telephone Consumers Protection Act ("TCPA"). The complaint was filed against a nationwide pharmacy that used prerecorded "robocalls" to remind existing patients that they needed to get a flu shot to protect them during the upcoming flu season. The U.S. District Court in San Francisco granted defendant's motion for summary judgment, holding that the calls were immunized from TCPA liability because they fully complied with the Federal Communications Commission's recently promulgated "safe harbor" for calls containing health care messages. Alternatively, the District Court also determined that the named plaintiff, by providing Safeway with her cell phone number in connection with getting a flu shot during the preceding flu season, had consented to the pharmacy's call to her at that number about renewing her flu vaccine. The potential exposure was enormous: any call made in violation of the TCPA is subject to a minimum fine of \$500, and many hundreds of thousands of calls were made each flu season. The case is *Jackson v. Safeway Inc.* (N.D. Calif. 2016) 2016 WL 5907917.



[Vicki M. Smith](#), Bodyfelt Mount LLP, Portland, OR, recently obtained summary judgment for their client, a church in Eugene, Oregon. In *Byrd v. Episcopal Church of the Resurrection*, the plaintiff brought premises liability claims against the church after a large rock in the church's memorial garden shifted and fell on her, causing significant injuries. Vicki challenged the plaintiff's legal status on the church's property, the plaintiff's ability to prove her claims, and the applicability of the recreational immunity statute. The case is on appeal. Kristen Stedman with *Bodyfelt Mount* also worked on the summary judgment.



[Guy Perrier](#), Perrier & Lacoste, LLC, New Orleans, LA, obtained a defense verdict for a trucking company and its driver in the case of Charles Fairley, as *Conservator of the Estate of James D. Owens, v. Total Transportation of Mississippi, LLC*, in the Circuit Court of Humphreys County, Mississippi. Following an 8-day trial the 12-member jury returned a unanimous defense verdict of no liability. Such verdicts are rare in Humphreys County which is a notoriously difficult venue for defendants. The case arose out of an accident that occurred at night on September 23, 2013, on Louisiana Highway 434 in Lacombe, Louisiana. Plaintiff was walking on the shoulder of a dark, unlit, rural highway. The truck driver was operating an 18-wheeler, and had just pulled out of the driveway of a factory. The truck driver completed his turn and was looking straight ahead when plaintiff stepped into his lane of travel. The evidence at trial showed the truck driver never left his lane, although plaintiff attempted to prove the truck went off the roadway before impact. [click here](#) to read more

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