

SUCCESSFUL PRESENTATION IN INDIAN WELLS

The appellate section participated in a successful panel at the Substantive Law Section Meeting of the Winter Meeting in Indian Wells, California on March 1, 2011.

The Appellate, MET, Commercial, Corporate Counsel and Financial Institution Sections presented: **Alternative Fee Arrangements: Will the Recession Compel a Move from the Billable Hour?**



Indian Wells Panelists Mike McMyne,
John Scott, Jr., Linda Woolf,
Allison Van Laningham and Stacy Broman

PLAN TO ATTEND THE ANNUAL MEETING 2011 COLONIAL WILLIAMSBURG RESORT WILLIAMSBURG, VIRGINIA JULY 24-31, 2011

We hope you will join us in Williamsburg at the 75th annual meeting of the Federation July 24-31, 2011. The Appellate Section is planning to team with several other sections on a program regarding claim splitting – splitting insurance files between coverage and liability adjusters.

The theme of the meeting is “Looking Back”. Social events include excursions to Water Country, U.S.A. and Busch Gardens Europe. We will attend a reenactment of a witch trial and cast a vote to determine whether the accused is innocent or guilty. A trip to the Sherwood Forest Plantation will be available. Colonial characters will abound. The President’s reception will be a lawn party behind the Williamsburg Inn. The theme party will be held at the Mariner’s Museum in Newport News, Virginia. The U.S.S. Monitor, the Navy’s first ironclad warship, is located on the premises. The “black tie free” dinner dance will end the week.

Deb Varner is the program chair. The end of the week will be highlighted by Karl Rove. Deb has also planned a trip to the College of William and Mary to view the Center for Legal and Court Technology.

Hotel accommodations are available at the Williamsburg Inn and the Williamsburg Lodge. Hotel accommodations may be made by calling the hotel at 1-800-447-8679 or at www.colonialwilliamsburg.com.

See you in Williamsburg July 24-31.

Stacy Broman, Appellate Section Chair

UPCOMING EVENTS

June 12-16, 2011

FDCC Litigation Management College and Graduate Program
Emory University
Atlanta, Georgia

July 25-27, 2011

FDCC Leadership Institute
Colonial Williamsburg Resort
Williamsburg, Virginia

July 24-31, 2011

ANNUAL Meeting 2011
Colonial Williamsburg Resort
Williamsburg, Virginia

September 20-22, 2011

8TH ANNUAL Corporate Counsel Symposium
Four Seasons Hotel
Philadelphia, Pennsylvania

November 16-18, 2011

Insurance Industry Institute
New York Athletic Club
New York

March 3-10, 2012

WINTER Meeting 2012
Waldorf Astoria Arizona Biltmore
Phoenix, Arizona

July 28-August 4, 2012

ANNUAL Meeting 2012
The Fairmont Chateau Whistler
Whistler, British Columbia

March 2-9, 2013

WINTER Meeting 2013
The Westin La Cantera Resort
San Antonio, Texas

July 28-August 4, 2013

ANNUAL Meeting 2013
The Broadmoor
Colorado Springs, Colorado

WINTER Meeting 2014

Marco Island Marriott
Florida

July 26-August 2, 2014

ANNUAL Meeting 2014
Silverado Resort
Napa Valley, California

WINTER Meeting 2015

Puerto Rico

ANNUAL Meeting 2015

Banff, Canada

WINTER Meeting 2016

San Diego Area

**Have you checked out
the new website?**

Check out the new look of the
FDCC website at:
www.thefederation.org

CASELAW UPDATE

On March 15, 2011, the Arizona Supreme Court accepted review of three of the four issues in the Petition for Review filed on behalf of Liberty Mutual in *Desert Mountain Properties, Ltd. Partnership ("DMP") v. Liberty Mut. Fire Ins. Co.*, 225 Ariz. 194, 236 P.3d 421 (App.Div.1, 2010).

In the underlying decision, the Arizona Court of Appeals held that a CGL policy issued to a residential developer-builder (DMP) provided coverage for repairs to its customers' homes of damage caused by poorly compacted soils. Because all of the alleged damage was to DMP's work product, under the economic loss rule adopted in Arizona DMP may have been liable to the homeowners under the warranties of its sales contracts, but not in tort. See e.g., *Flagstaff Affordable Housing Limited Partnership v. Design Alliance, Inc.*, 223 Ariz. 320, 321, ¶ 1, 223 P.3d 664, 665 (2010). Further, no homeowner ever sued DMP; all repair costs at issue were incurred by DMP for an extensive repair and remediation program, undertaken to protect its good will.

The three issues accepted for review were: (1) whether an insured's warranty liability for damage that is economic loss is covered by the insuring clause of a CGL policy; (2) whether the insured's warranty liability for such economic loss is excluded from coverage by the Contractual Liability Exclusion; and (3) whether the repair costs were a "legal obligation" to pay "damages" (requirements of the insuring clause) in view of the undisputed evidence that DMP was never sued, nor did any governmental agency require the repairs.

Oral argument was held April 26, 2011. If interested in additional information regarding this case, please contact:

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8TH ANNUAL CORPORATE COUNSEL SYMPOSIUM

SEPTEMBER 20-22, 2011

Four Seasons Hotel, Philadelphia

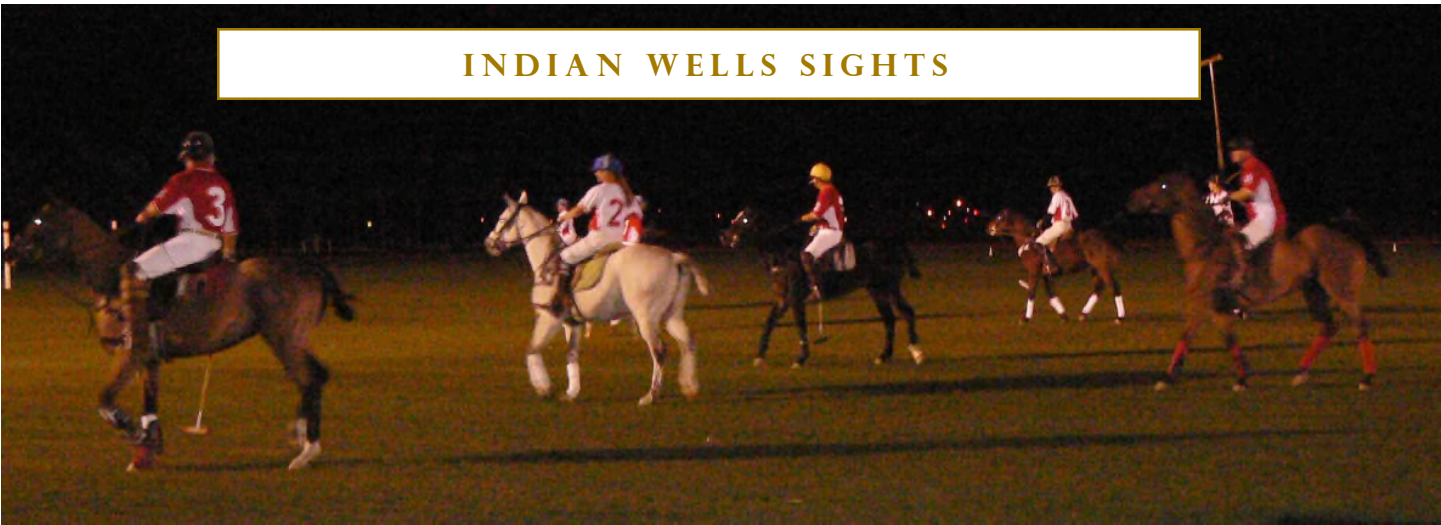
BACK TO THE FUTURE?

Corporate Counsel's Role in Managing Risk in 2012 and Beyond

Plan now to attend the 8th Annual Corporate Counsel Symposium.

Speakers include keynote speaker Manny Medrano, former legal affairs and Supreme Court correspondent for ABC News; as well as Ben Heineman, Harvard University former Vice-President, General Counsel of General Electric; U.S. District Judge Shira Sheindlein, Southern District of New York; U.S. District Judge Gene E.K. Pratter, Eastern District of Pennsylvania; U.S. Magistrate Judge Patty Schwartz, District of New Jersey; Honorable Mark I. Bernstein, Judge First Judicial District of Pennsylvania; Terry Goudie, media consultant; and Marcia Rabiteau, associate general counsel Koch Industries.

INDIAN WELLS SIGHTS





FDCC APPELLATE SECTION

Stacy Broman, Chair



David Bell, Vice-Chair



Meloney Cargil Perry, Vice-Chair



Allison Van Laningham, Amicus Liason

