

PRESIDENT'S MESSAGE



Tom Cordell
President

75th Anniversary Celebration

On April 9, 1936, a small group of insurance and defense counsel met at the Roosevelt Hotel in New York City to form the Federation of Insurance Counsel (FIC). Over the decades, the Federation flourished as a result of the dedication of its members, which was born of business relations, but which matured and was strengthened because of the friendships developed through their association.

The Federation celebrates its 75th Anniversary in 2011. 2011 will be a time not only to celebrate this milestone, but also to reflect upon the rich history of our organization, as well as a time to look ahead. We all stand on the shoulders of those who have gone before us; those who have built greatness into the Federation and who have brought us to where we stand today.

From this 75th year vantage point, we have a responsibility to look ahead into the future, chart a course for the Federation which will continue to build greatness into the organization, and further enhance its historical reputation and position as a leader and innovator for the defense bar.

I have adopted a single term for the year: "Magis". The term has religious underpinnings coming from the Jesuit tradition. It is also a term used by author Chris Lowney in his book: Heroic Leadership. The term, translated, means literally "the more". In interpretation, it connotes the (See [President's Report Page 2](#))

FDCC WINTER MEETING

*February 26-March 5, 2011
Indian Wells, California*

Mike and Linda Nelson, Convention Chairs

Happy Anniversary! The 2011 Winter Meeting in Indian Wells, California will be a celebration you won't want to miss. Join Tom and Ann Cordell as we commence our celebration of the FDCC's 75th Anniversary at the luxurious Hyatt Grand Champions Resort, Villas, and Spa. The majestic San Jacinto Mountains are the perfect setting for this event.

Come and explore Indian Wells, California - a blend of geological wonders and old Hollywood sophistication. We have planned numerous

excursions to allow you to experience the exciting recreation, breathtaking scenery, wildlife, clean mountain air; have access to unrivaled championship golf courses and spectacular tennis; and shop the glamorous stores of El Paseo Drive, the Rodeo Drive of Palm Springs. Opportunities abound in the Coachella Valley to explore the many *Faces of the Desert*, to survey the golf links, and to tour the San Andreas Fault. Bring extra cash - Steve Farrar will teach you how to play blackjack, and then you can try out your skills at the Agua Caliente Casino, only 11 miles away. Arrangements have been made for golf enthusiasts to attend the Callaway Performance Center. Please make

(See [2011 Winter Meeting Page 3](#))



Please take this
Federation Flyer home
to your family.

(President’s Report Continued from Page 1)

drive, desire, discipline, and dedication to take the gifts, talents, and abilities that we possess and make them more than what they are. For the Federation in 2011, it is my goal for the programs, sections, committees, and conventions to rise to new levels. Through the talents and creative efforts of our members, we will strive to make the Federation the best that it can be.

Our organization will continue to provide members with cutting edge CLE programming, and strengthen our voice on issues that assure justice is maintained in the judicial system. Yet, the uniqueness of the Federation rests in its fellowship component. We maintain a limited and well-vetted membership to assure that we select the “best of the best.” Through these efforts, we have also developed a comradery and fellowship that I have not seen or experienced in any other organization. The friendships and relationships that grow out of membership in the Federation are ones that continue even after business careers have ended.

Our celebration of the 75th Anniversary will formally commence at the Winter Meeting in Indian Wells, California, and culminate at the Annual Meeting in Williamsburg, Virginia. I encourage each of you to join us for this special year of celebration. The 2011 Winter Meeting will be held at the Hyatt Grand Champions in Indian Wells, California from Saturday, February 26 through Saturday, March 3. Our Convention Chairs, Mike and Linda Nelson, and Program Chair, Bruce Celebrezze, have worked tirelessly to make this an event you will enjoy and remember. The FDCC website contains all of the information you will need to find out more about this special week, reserve hotel rooms, and register for the Convention.

The Annual Meeting will be held in historical, Colonial Williamsburg, Virginia, commencing on Sunday July 24 and ending on Sunday July 31. Convention Chairs, Deb and John Kuchler, and Program Chair Deb Varner, are hard at work to make the 75th Annual Meeting of the Federation a memorable and meaningful event.

We will continue our educational efforts outside of the conventions, increasing their relevance and improving their content. The Litigation Management College, Graduate Litigation Management College, Leadership Institute, Corporate Counsel Symposium, and Insurance Symposium are being directed and guided by FDCC members, who are dedicated to making these

programs the best that they can be. The Leadership Institute will be held in Williamsburg just before the commencement of the Annual Meeting and will be poised to draw FDCC members as well as potential FDCC members, who can gain their first exposure to the Federation, at this Institute. The Federation has partnered with the PLRB in presenting webinars on issues that are moving quickly to the forefront of the insurance industry.

The Projects and Objectives Committee met in Philadelphia in September of this year. Led by Steve Farrar, the P&O Committee undertook an analysis of the substantive sections, the manner in which

these sections function, and the programming they provide.

The Federation remains committed to the continued implementation of its Strategic Plan. Rich Traub is assuming the responsibility of assuring that the goals of the Strategic Plan reach every aspect of the Federation.

The Federation is alive and moving into a new age.

I look forward to serving with all of you during this special year as we celebrate, reflect on our past, and look forward to the future.

—Tom Cordell

“Through these efforts, we have also developed a comradery and fellowship that I have not seen or experienced in any other organization. The friendships and relationships that grow out of membership in the Federation are ones that continue even after business careers have ended.”

MEMBERSHIP STATUS REPORT

Membership as of November 2010

Defense Counsel	1065
Defense/International	61
Corporate Counsel	142
Corporate/International	5
Industry	38
Industry/International	3
Special Member - Active	8
Special Member - Retired	56
Emeritus	22
TOTAL	1400

The Program

“Looking Forward ... to the ‘More’ in Our Law Practice and Our Lives.”

We will have five full days of continuing education seminars for the benefit of our members.

We begin our week with **TRIAL MASTERS** on Monday, February 28th. Our fellow FDCC trial masters will present a great program on how best to utilize the 100 days before trial.

The main portions of the plenary program will be on Tuesday, March 1st, and Wednesday, March 2nd. These programs promise to be riveting:

GET YOUR FACEBOOK™ OUT OF MYSPACE™: THE RISKS AND REWARDS OF SOCIAL MEDIA

- Learn the basics of social networking, how to avoid its pitfalls, and how to profit from its capabilities. After covering the basics of social networks in a “primer,” our speakers will address litigation-related issues, promotional opportunities, and ethical and risk management issues associated with web-based social networking.

FUNDAMENTALLY RESHAPING THE RULES OF CIVIL PROCEDURE: MIRAGE OR REALITY

- The United States Judicial Conference has embarked on a broad review of the Federal Rules of Civil Procedure. Seizing this opportunity, the defense bar and business community have proposed meaningful amendments that would alter the paradigms controlling federal court litigation. Panelists at the forefront of

this effort will describe the proposals – including tighter pleading standards, focusing discovery on the claims and defenses and presumptive limits on electronic discovery, and re-allocating discovery costs to the requesting party.

E-DISCOVERY 2.0 - This program will present methods and considerations to enhance communication with clients, opposing counsel, and the computer technicians and experts who are essential to the task of effective e-discovery and production of electronically stored information. In addition, the program will present practical examples

(2011 Winter Meeting Continued from Page 1)

sure you sign up for this event on the registration form. There are so many sights to see, you won't be disappointed. You will find a full list of the exciting tours and activities in the online brochure.

We will enjoy some of the “staples” of FDCC meetings, like the President's Reception, Theme Party and Black Tie Gala. We will be honoring our President, Tom Cordell, as well as all of the Past Presidents, when we *Take a Walk Down Memory Lane* poolside at the Hyatt. On Wednesday, we will experience the Empire Polo Grounds for our Theme Party and enjoy a Polo demonstration with all of the fun that comes with such a high-energy event. Concluding our week on Friday will be our *Diamonds are Forever* Black Tie Gala with the glamour and elegance befitting a 75th anniversary celebration.

Our Program Chair Bruce Celebrezze's CLE is designed around the theme of “Looking Forward ... to The “More” in Our Law Practice and Our Lives.” In addition to a Trial Masters' program about utilizing the last 100 days before trial, Plenary Sessions will include presentations on environmental issues featuring panels on “green” construction, energy, and water; the significant changes in the Federal Rules of Civil Procedure and new pleading requirements in federal and state courts; the current state of e-discovery; the omnipresent social networking sites; and the impact of technology on our jurors.

Keeping with the theme of *Looking Forward*, our distinguished guest speaker Rachel Dretzin will discuss the effects the digital media and the World Wide Web have on virtually every aspect of modern culture. Our Keynote Speaker, former Astronaut Colonel Mike Mullane, will enthrall us with stories about his adventures as an astronaut. Please bring your whole family to listen and learn from Colonel Mullane's inspirational, motivational, and humorous presentation of his astronaut experience.

Plan ahead for this Saturday to Saturday meeting - February 26-March 5, 2011. Join us as we all explore the many *Faces of the Desert*. You won't want to miss this meeting as we kick off the 75th Anniversary of the FDCC by honoring, remembering, and celebrating the Federation's vibrant history!

Come for the memories and ... create new ones!!

—Mike and Linda Nelson
Convention Chairs





of the use of technology tools and experts to enhance the collection, production, and review of electronically stored information.

GREEN CONSTRUCTION & LEED - A PRIMER FOR COUNSEL - This program will offer an overview of green building, LEED, changes in AIA and Construction contracts, green building insurance products, and a glimpse at potential litigation issues which may face building professionals, contractors, and insurers over claim coverage disputes associated with building green.

ENERGY IN THE 21ST CENTURY - *“Mass Disaster/Mass Confusion: Understanding Our Energy and Water Future”* - We hear about oil, gas, hydropower, nuclear, geothermal, coal, bioenergy, solar, and wind, but what is the Energy Industry really “about” these days? Discover the issues, conflicts, myths, and truths behind our energy and water use. Our speakers will target the key regulatory battles and the real implications for our clients, practices, and society.

On Thursday, March 3rd, we have a very special program with two impressive guest speakers:

Professor Shari Seidman Diamond from Northwestern University School of Law and the American Bar Foundation will speak on *“The Real Civil Jury.”* The American jury is both a cherished icon and a popular scapegoat, praised for common sense and charged with incompetence and bias. The inconsistent reactions and vigorous debate that the jury inspires are understandable in light of the jury’s distinctive character. In a system run primarily by specialists, the jury is ostensibly the consummate amateur. This program will present the results from a unique study of

50 real civil jury deliberations, revealing how juries actually grapple with conflicting evidence, complex expert testimony, and challenging legal directives. Against this backdrop of actual jury behavior, Professor Diamond will look at recent jury innovations to consider how the legal system can support, and where it fails to support, optimal jury performance.

Rachel Dretzin, the award-winning producer of two PBS *FRONTLINE* documentaries about life in the digital age, *Growing Up Online* and *Digital Nation: Life on the Virtual Frontier*, will address our *“Digital Nation.”* Within a

single generation, digital media and the World Wide Web have transformed virtually every aspect of modern culture, from the way we learn and work to the ways in which we socialize and even conduct war. Research shows that young people spend approximately 50 hours a week connected to their devices; multitasking has become second nature for almost everyone, and more and more of our relationships take place in virtual spaces rather than in real ones. But is our technology moving faster than we can adapt to it? And is our 24/7 wired world causing us to lose as much as we’ve gained?

In her presentation, Dretzin will share clips from her documentaries that highlight the ways in which digital technology both augments and distorts the quality of our lives. She will summarize the current state of research into the effect of the internet on our brains and discuss the scientific research being done into the practical effectiveness of multitasking. She will show examples of ways in which businesses are using technology to create new ways of connecting, but also talk about the ways in which technology can make it harder to connect to each other. At the heart of Dretzin’s presentation is the question of what the implications are on our personal, professional, and family lives of living in a world consumed by technology, and the impact that this constant connectivity may have on future generations.

Throughout the week, we will also have section meetings, offering presentations covering a wide array of interesting topics. Choose from:

- *“Alternative Fee Arrangements: Will The Recession Compel A Move From The Billable Hour?”*
- *“Who Pays for the Crime? Defending the Property Owner in Negligent Security Claims”*

- “Pre-Suit Discovery – Are you the tortoise or the hare?”
- “Beware: The Hidden Dangers in Employment”
- “A New Virtual Reality – Social Media, Life Sciences, FDA, and the Public”
- “Class Action Soup with a Side of MDL: Defendant Classes, Electronic Privacy, and Bellwether Plaintiff”
- “Bailing Out Medicare: Defense Counsel’s Medicare Reporting and Set-Aside Obligations”
- “Peace of Mind – Understanding the Defense Firm’s Potential Liability and Providing Protection”
- “Climate, Environment, and Insurance- Adjustment and Enforcement Issues related to Energy Code and Green Compliance Claim; BP Spill Coverage Issues & Update”
- “Construction Defects And Chinese Drywall: Core Litigation And Coverage Issues Vexing Counsel And Litigants Alike”
- “The Ripple Effect Of Catastrophic Environmental Events: Moratoriums, Regulatory Change, And Industry Reaction – Do We Learn From Our Mistakes?”
- “Mass Environmental/Toxic Tort Disasters – How to Plan for the Worst and Hope for the Best— What to do When they Occur”

We end our week on Friday, March 4th with a real treat – our keynote speaker, astronaut Mike Mullane will bring us his “**Stories from Space.**” Colonel Mullane completed three space missions and logged 356 hours in space aboard the shuttles Discovery and Atlantis before retiring from NASA and the Air Force. Colonel Mullane has been inducted into the International Space Hall of Fame and is the recipient of many awards including the Air Force Distinguished Flying Cross, Legion of Merit, and the NASA Space Flight Medal.

Since his retirement from NASA, Colonel Mullane has written and published the novel Red Sky – A Novel of Love, Space & War; the award-winning children’s book Liftoff! An Astronaut’s Dream; and a popular space-fact book, Do Your Ears Pop in Space? Mike Mullane’s memoir, Riding Rockets, The Outrageous Tales of a Space Shuttle Astronaut, has been reviewed by the New York Times and on Jon Stewart’s The Daily Show. Colonel Mullane has also served as a host for Inside Space, a nationally syndicated cable television program on the USA Network.

—Bruce Celebrezze
Program Chair

WINTER MEETING BOOK CLUB

Mary Alice Collins

How does one define intelligence? Or measure success? And what happens when external forces shift the paradigm for both?

The FDCC Book Club will answer these question and more when we gather to discuss three separate books with interwoven themes.

The first is **OUTLIERS** by Malcolm Gladwell, a non-fiction study of why some individuals rise to greatness while others, with even greater intellectual gifts, fall by the wayside. Meticulously researched, well-constructed and original, the author points to a curious combination of factors from work ethic and birth dates to cultural mores and lucky circumstance in presenting his fascinating theory. Our second book is **STILL ALICE** by neuroscientist and first-time novelist Lisa Genova. Winner of the 2008 Bronte prize, this fictional masterpiece depicts the heartbreakingly real story of a brilliant Harvard psychologist and her descent into dementia. With a clinician’s precision of language and a master storyteller’s eloquence, the author paints a poignant portrait of early-onset Alzheimer’s that leaves the reader forever changed.

And our third book is **HUNGER GAMES** by Suzanne Collins. Penned for young adults, but displaying such depth and elegant prose that it appeals to all ages, this story takes place in a hideous future world where the government has gone berserk and children are forced to enter various competitions to literally fight for their lives. Themes include mental strategy, cunning, discernment, and survival instincts and the style of writing is oddly hypnotic. Most readers fall prey to the page-turning intensity and mesmerizing imagery and finish this book in a single day.

While three books seems daunting, none are overly long. And if you only select one, that is perfectly fine. The book club discussion will still work.

So get reading! I am looking forward to seeing everyone in California!

—Mary Alice

Looking Forward: . . . to the "More" in Our Law Practice and Our Lives

Program Chair: Bruce D. Celebrezze
Sedgwick Detert Moran & Arnold, LLP
San Francisco, CA

Monday, February 28, 2011

9:00 a.m. - 12:00 p.m. Trial Masters Program - "100 Days Before Trial"

Our amazing FDCC "Trial Masters" will help us all best utilize the 100 days before trial. Topics to be addressed include:

- Use of software and technology in pretrial preparation.
- Marshalling pretrial and trial resources supporting defense themes.
- Utilization and organization of trial technology, exhibits, and pretrial motions.
- Anticipating plaintiff's themes prior to trial.
- Discussion and demonstration of how to set up, counter, and distract from plaintiff's themes and evidence.
- Using evidence, technology, exhibits, and motions to counter and distract.
- Setting up the case prior to trial with the use of both verbal and non-verbal communication to counter plaintiff's themes at trial.
- Client expectations prior to trial.
- Handling clients up through trial.
- What corporate and insurance clients need and should have from counsel before trial.
- Is everyone on board to try the case?
- Who and what is involved in the choice of trial representatives, evaluation, witness preparation, reserving, and managing expectations up through and during trial?
- Pretrial concerns about juror demographics, diversity, and gender bias in a case.

Presenters: Donald L. Myles, Jr. - *Jones Skelton & Hochuli*, Phoenix, AZ
Deborah Kuchler - *Kuchler Polk Schell Weiner & Richeson*, New Orleans, LA
Joseph M. Fasi, II - *Gonzalez Saggio & Harlan LLP*, Milwaukee, WI
Elizabeth Leedom - *Bennett Bigelow & Leedom*, Seattle, WA
James M. Campbell - *Campbell Campbell Edwards & Conroy*, Boston, MA
Kimberly D. Baker - *Williams Kastner & Gibbs*, Seattle, WA
Clark R. Hudson - *Neil Dymott McFall & Trexler*, San Diego, CA
Ronald J. Clark - *Bullivant Houser Bailey*, Portland, OR
Robert W. Foster, Jr. - *Nelson Mullins Riley & Scarborough*, Columbia, SC
Kathleen Wieneke - *Jones Skelton & Hochuli*, Phoenix, AZ



Tuesday, March 1, 2011

7:30 - 8:45 a.m. Substantive Law Section Meetings:

Appellate, MET, Commercial, Corporate Counsel, and Financial Institutions

"Alternative Fee Arrangements: Will The Recession Compel A Move From The Billable Hour?"

The debate continues among lawyers and their clients regarding whether alternative billing arrangements can truly provide profitability to the lawyer and, at the same time, significantly lower costs to the client. This debate has become particularly acute as the current economic recession drives clients to address their costs with more certainty in forecast. The success of an alternative fee arrangement is based on a number of factors, and this panel will explore the characteristics of successful fee models, the obstacles to such arrangements, and the ethical considerations which must be addressed when implementing alternative fee arrangements.

Moderator: Stacy A. Broman - *Meagher & Geer PLLP*, Minneapolis, MN

Panelists: Linda S. Woolf - *Goodell DeVries Leech & Dann, LLP*, Baltimore, MD
Mike McMyne - *Burlington Insurance Group*, Hartford, CT
John P. Scott, Jr. - *Starnes Davis Florie LLP*, Birmingham, AL
Allison O. Van Laningham - *Smith Moore Leatherwood LLP*, Greensboro, NC

Premises

“Who Pays for the Crime? Defending the Property Owner in Negligent Security Claims”

What exposure does a premises owner have for violent criminal activity on his property? Our panel of seasoned attorneys and an experienced jury consultant will address the cutting edge issues that arise in defending a negligent security claim. We will have a lively discussion about recurrent issues and themes, including: notice of criminal activity, adequacy of training, inadequate force, excessive force, special problems of low income housing and/or tough neighborhoods, joint and several liability, presenting a persuasive case, and jury considerations.

Moderator: Richard Fulmer - *Fulmer LeRoy Albee Baumann & Glass*, Fort Lauderdale, FL

Panelists: Richards Ford - *Wicker Smith O’Hara McCoy & Ford*, Orlando, FL
Stuart Simon - *American Jury Consultants*, Sandestin, FL



Intellectual Property, Technology, and Transportation

“Pre-Suit Discovery - Are you the tortoise or the hare?”

As the world speeds up, information becomes ubiquitous and transient, and pleading standards get tougher. Clients and lawyers are confronting the need for and demands of pre-suit discovery more frequently. Hard drives, smart phones, video cameras, black boxes, data recorders, twitters, and postings all contain information that might impact your lawsuit. Plaintiffs faced with the possibility of Twombly and Iqbal motions seek discovery in aid of drafting complaints. This panel discussion will focus on pre-suit discovery - both offensively and defensively. What are the likely battle grounds? When (and where) can it be used for purposes other than preservation of evidence? If your client gets hit with discovery before a complaint, what do you need to know?

Moderator: John E. Quinn - *Manier & Herod*, Nashville, TN

Panelists: Kurt M. Rozelsky - *Smith Moore Leatherwood*, Greenville, SC
Robert T. Franklin - *Franklin & Prokopik*, Baltimore, MD
Sidney J. Hardy - *McCranie Sistrunk Anzelmo Hardy Maxwell & McDaniel*, Metairie, LA
Michael J. O’Connell - *O’Connell Flaherty Attmore*, Hartford, CT

9:00 a.m. - 12:00 p.m. Plenary Session

9:00-10:00 a.m. “Get your Facebook™ out of MySpace™: The Risks and Rewards of Social Media”

Facebook, Twitter, LinkedIn, MySpace, Legal OnRamp: scores of Web 2.0 “social networking” sites provide lawyers the opportunity to promote themselves and their practice, and afford all participants in the legal system the ability to influence that system in unprecedented ways. Learn the basics of social networking, how to avoid its pitfalls, and how to profit from its capabilities. After covering the basics of social networks in a “primer,” our speakers will address litigation-related issues, promotional opportunities, and ethical and risk management issues associated with web-based social networking.

Moderator: Brett J. Preston - *Hill Ward Henderson*, Tampa, FL

Panelists: Casey Reeder - *Hill Ward Henderson*, Tampa, FL
Marc Harwell - *Leitner Williams Dooley & Napolitan*, Chattanooga, TN
Joseph M. Fasi II - *Gonzalez Saggio & Harlan LLP*, Milwaukee, WI

10:00-11:00 a.m. “Fundamentally Reshaping The Rules of Civil Procedure: Mirage or Reality”

The United States Judicial Conference has embarked on a broad review of the Federal Rules of Civil Procedure. Seizing this opportunity, the defense bar and business community have proposed meaningful amendments that would alter the paradigms controlling federal court litigation. Panelists at the forefront of this effort will

describe the proposals - including tighter pleading standards, focusing discovery on the claims and defenses, presumptive limits on electronic discovery, and reallocating discovery costs to the requesting party. Panelists will also discuss the data and rationales supporting the need to fundamentally realign federal civil procedure, the implications for you and your clients, and the efforts underway to make these necessary changes a reality.

Moderator: Howard A. Merten - *Partridge Snow & Hahn LLP*, Providence, RI

Panelists: Alfred W. Cortese, Jr. - *Cortese PLLC*, Washington, DC

Bruce Parker - *Venable*, Baltimore, MD

Debra Tedeschi Herron - *McNeer Highland McMunn & Varner*, Clarksburg, WV

11:00-12:00 p.m. "E-Discovery 2.0"

The discovery of electronic information is now a familiar part of civil litigation. But familiarity has not necessarily made the task of e-discovery easier. The key to successful e-discovery is clear communication with all participants in the process, from the earliest stages of the case. This program will present methods and considerations to enhance communication with clients, opposing counsel, and the computer technicians and experts who are essential to the task of effective e-discovery and production of electronically stored information. In addition, the program will present practical examples of the use of technology tools and experts to enhance the collection, production, and review of electronically stored information.

Moderator: David M. Fuqua - *Fuqua Campbell*, Little Rock, AR

Panelists: Gale White - *White and Williams*, Philadelphia, PA

Howard Zandman - *Habif Arogeti & Wynne*, Atlanta, GA

Greg Freemyer - *Norcross Group*, Norcross, GA



Wednesday, March 2, 2011

7:30 - 8:45 a.m. Substantive Law Section Meetings:

Civil Rights/Public Entity, Employment, and Alternative Dispute Resolution

"Beware: The Hidden Dangers in Employment"

Whether you are in-house counsel, managing your law firm, an employment/civil rights lawyer (or want to be one), join us for a lively and topical discussion on cutting edge employment issues. We will discuss employment trends and hot button topics such as social networking, workplace bullying, immigration, fair labor standard act class actions, dealing with the media, mediation, mitigating fee shifting, and best practices to implement to protect your companies, law firms, and clients from being sued.

Moderator: Jeffrey Kelsey - *Federal Express Corporation*, Memphis, TN

Panelists: Mercedes Colwin - *Gordon & Rees LLP*, New York, NY

Robert Christie - *Christie Law Group*, Seattle, WA

Michele Ballard Miller - *Miller Law Group*, San Francisco, CA

Elizabeth Lorell - *Gordon & Rees LLP*, Florham Park, NJ

Drug Device & BioTech

"A New Virtual Reality - Social Media, Life Sciences, FDA, and the Public"

The rapid revolution of social media has transformed communications throughout the world. It is being felt acutely in the highly regulated world of the life sciences industry. Pharmaceutical and medical device companies and their attorneys must be aware of how social media can be used in pharmaceutical and medical device advertising, as well as in claims and product issues, and how employees of pharmaceutical and medical device companies may be using social media in their business and professional lives. Three experts will discuss these issues in a wide-ranging and free-flowing discussion of this relevant and ever changing topic.

Moderator: Joseph M. Fasi II - *Gonzalez Saggio & Harlan LLP*, Milwaukee, WI

Panelists: Michael D. Shalhoub - *Goldberg Segalla*, White Plains, NY

Kimberly D. Baker - *Williams Kastner & Gibbs*, Seattle, WA

Leslie C. O'Toole - *Ellis & Winters*, Raleigh, NC

Class Action/MDL

“Class Action Soup with a Side of MDL: Defendant Classes, Electronic Privacy, and Bellwether Plaintiff”

Lively discussion regarding the ins and outs of trying the Bellwether case in an MDL, prosecuting and defending when there is a defendant class, and electronic privacy concerns in employment class actions.

Moderator: Kurtis B. Reeg - *Reeg Lawyers LLC*, St. Louis, MO

Panelists: Edward B. Ruff - *Pretzel & Stouffer*, Chicago, IL
Gray T. Culbreath - *Collins and Lacy*, Columbia, SC
David A. Schooler - *Briggs & Morgan*, Minneapolis, MN



9:00 a.m. - 12:00 p.m. Plenary Session

9:00 - 9:10 a.m. Welcome to Convention

Convention Chair Michael Nelson

- *Nelson Levine de Luca & Horst, LLC*, New York, NY

9:10 - 9:30 a.m. Introduction of New Members, Past Presidents, and Special Friends

FDDC President F. Thomas Cordell

- *Frailey Chaffin Cordell Perryman Sterkel McCalla & Brown LLP*, Chickasha, OK

9:30 - 9:45 a.m. Welcome to the Desert

10:00 - 11:00 a.m. “Green Construction & LEED - A Primer for Counsel”

Green building is a reality. Green building can reduce energy use, CO₂ emissions, water use, and solid waste. Green building is one of the fastest growing industries in the economy, increasing from \$7 billion in 2005 to \$60 billion in 2010. It is estimated that, by 2013, 25% of all construction starts will involve green building. Much of the risk associated with green building comes from design services and contractor performance. The U.S. Green Building Council has developed voluntary standards (LEED), soon to be codified into the International Building Code. The green revolution will impact service professionals' and contractors' standards of care in planning, designing, building, and scheduling construction. Moreover, green construction will impact insurance for the repair or reconstruction of damaged green properties. As a result, the insurance industry has been, is being, and will be affected profoundly by both climate change and green building practices.

This program will offer an overview of green building, LEED, changes in AIA and other construction contracts, and green building insurance products, and a glimpse at potential litigation issues which may face building professionals, contractors, and insurers over coverage disputes associated with building green.

Moderator: Joyce Wang - *Carlson Calladine & Peterson*, San Francisco, CA

Panelists: Norman Golinkin - *SEA Ltd.*, Chicago, IL

Joanne Blackburn - *Gordon Thomas Honeywell Malanca Peterson & Daheim*, Seattle, WA

Ned Currie - *Currie Johnson Griffin Gaines & Myers*, Jackson, MS

Rebecca Levy-Sachs - *Robinson & Cole*, Sarasota, FL

11:00 a.m. - 12:00 p.m. “Energy in the 21st Century - Mass Disaster/Mass Confusion: Understanding Our Energy and Water Future”

BP's oil well disaster highlighted the risks and complications energy companies encounter in our ever-shrinking world of high demand, limited resources and complex regulations. We hear about oil, gas, hydropower, nuclear, geothermal, coal, bioenergy, solar, and wind, but what is the Energy Industry really “about” these days? What about other scarce natural resources? Are battles about water the same as battles about energy? Finally, what are the global implications: what do citizens in other countries think and what does this mean for the U.S.?

Discover the issues, conflicts, myths, and truths behind our energy and water use. Our speakers will target the key regulatory battles and the real implications for our clients, practices, and society. Find out what you need to know as an attorney and as a citizen.

Moderator: David Governo - *Governo Law Firm*, Boston, MA

Panelists: Chuck D. Barlow, Assistant General Counsel-*Environmental-Entergy Corporation*, New Orleans, LA

David Bertschi - *Bertschi Orth Smith LLP*, Ottawa, ON

Floyd Wicks, President - *H₂Options, Inc.*, Santa Barbara, CA

Thursday, March 3, 2011

7:30 - 8:45 a.m. Substantive Law Section Meetings:

Life Health and Disability, Trial Tactics, and Healthcare

“Bailing Out Medicare: Defense Counsel’s Medicare Reporting and Set-Aside Obligations”

Defense counsel handling virtually any type of claim involving medical expenses is now faced with the regulatory and financial consequences of failing to protect an entity other than a client. Congress has greatly expanded defense counsel’s duty to determine whether Medicare is entitled to a share of any settlement or judgment. Counsel must also assure that the Government gets paid. This experienced panel will explain counsel’s obligations, how to meet them, and the serious consequences of failure to do so.

Moderator: Matthew Y. Biscan - *Clisham Satriana & Biscan*, Denver, CO

Panelists: GERALYN M. PASSARO - *Litchfield Cavo*, Fort Lauderdale, FL
Charles Joyner - *Atlas Settlement Group, Inc.*, Atlanta, GA

Toxic Tort/Environmental

“Mass Environmental/Toxic Tort Disasters - How to Plan for the Worst and Hope for the Best - What to do When they Occur”

What can an outside counsel do to help a company plan for and respond to major environmental and toxic tort disasters, and what steps can outside counsel take to maximize a client’s success in responding to these events? The discussion will cover topics such as corporate planning and communications; media relations; internal investigations; confidentiality and privilege issues; insurance issues; the types of claims and claimants which may be anticipated; the development of defenses; settlement; and other related issues. Participants in this session will gain the skills and confidence to lead a client through a mass disaster to a successful resolution.

Panelists: David R. Erickson - *Shook Hardy & Bacon*, Kansas City, MO

Joseph M. Gaynor, Jr., Vice President, General Counsel -
Columbian Chemicals Company, Marietta, GA

Property, Excess/Reinsurance, and Extracontractual

“Climate, Environment, and Insurance - Adjustment and Enforcement Issues Related to Energy Code and Green Compliance Claim; BP Spill Coverage Issues & Update”

States are putting more and more emphasis on green buildings and insureds are seeking to have their policies cover these upgrades. This presentation will focus on how the energy codes of various states are being used by insureds to claim coverage for various building betterments, and examine how State enforcement agencies have taken different approaches on the requirements of bringing older buildings up to current energy efficiency codes and recent court decisions on the topic.

Additionally, the session will present an update on property insurance issues related to the BP oil spill, including potential coverage issues and actual litigation.

Panelists: Barclay R. Nicholson - *Fulbright & Jaworski*, Houston, TX

Steven E. Goldman - *Robinson & Cole*, Hartford, CT

9:00 - 11:30 a.m. Plenary Session

9:00 - 10:00 a.m. “The Real Civil Jury”



The American jury is both a cherished icon and a popular scapegoat, praised for common sense and charged with incompetence and bias. The inconsistent reactions and vigorous debate that the jury inspires are understandable in light of the jury’s distinctive character. In a system run primarily by specialists, the jury is ostensibly the consummate amateur.

In this program, **Shari Seidman Diamond**, Howard J. Trienens Professor of Law and Professor of Psychology, Director, J.D.-Ph.D. Program, *Northwestern University School of Law*, and Research Professor, *American Bar Foundation*, will present the results from a unique study of 50 real civil jury deliberations, revealing how juries actually grapple with conflicting evidence, complex expert testimony, and challenging legal directives. Against this

backdrop of actual jury behavior, Professor Diamond will look at recent jury innovations to consider how the legal system can support, and where it fails to support, optimal jury performance.



10:00 - 11:30 a.m. "Digital Nation"

Within a single generation, digital media and the World Wide Web have transformed virtually every aspect of modern culture, from the way we learn and work, to the ways in which we socialize and even conduct war. Research shows that young people spend approximately 50 hours a week connected to their devices; multitasking has become second nature for almost everyone, and more and more of our relationships take place in virtual spaces rather than in real ones. But, is our technology moving faster than we can adapt to it? Is our 24/7 wired world causing us to lose as much as we've gained?



Rachel Dretzin is the award-winning producer of two PBS *FRONTLINE* documentaries about life in the digital age, *Growing Up Online* and *Digital Nation: Life on the Virtual Frontier*. In her presentation, Dretzin will share tips from her documentaries that highlight the ways in which digital technology both augments and distorts the quality of our lives. She'll summarize the current state of research into the effect of the internet on our brains and discuss the scientific research being done into the practical effectiveness of multitasking. She'll show examples of ways in which businesses are using technology to create new ways of connecting, but also talk about the ways in which technology can make it harder to connect to each other. At the heart of Dretzin's presentation is the question of what the implications are on our personal, professional, and family lives of living in a world consumed by technology, and the impact that this constant connectivity may have on future generations. The program will be interactive, and questions and comments from the audience will be welcome.



Friday, March 4, 2011

7:30 - 8:45 a.m. Substantive Law Section Meetings:

Construction, Products Liability, and International

"Construction Defects And Chinese Drywall: Core Litigation And Coverage Issues Vexing Counsel And Litigants Alike"

The many construction defect and products liability actions arising out of the alleged defects in Chinese Drywall products - some in the form of class actions - flooding state and federal court have given rise to vexing legal problems on all fronts that transcend the particular products at issue and affect mainstream construction, products liability, and insurance coverage litigation. Our panel will explore these thorny issues both from the substantive liability side and from the coverage side.

Moderator: Jeffrey W. Lorell - *Saiber LLC*, Florham Park, NJ

Panelists: Gerald A. Melchiode - *Galloway Johnson Tompkins Burr & Smith*, New Orleans, LA
Kevin C. O'Bryon - *O'Bryon Schnabel*, New Orleans, LA
Thomas F. Segalla - *Goldberg Segalla LLP*, Buffalo, NY
James M. Parks, Sr. Vice President, Client Services - *Rust Consulting, Inc.*, Minneapolis, MN

Insurance Coverage

"The Ripple Effect Of Catastrophic Environmental Events:

Moratoriums, Regulatory Change, And Industry Reaction - Do We Learn From Our Mistakes?"

When the peace of a community is disrupted by environmental disaster, what change resonates through government, the private sector, and the insurance industry? Although oil leaking from the Deepwater Horizon drilling platform site may be the greatest environmental disaster in U.S. history, new environmental disasters lie ahead.

Insurers and insureds alike were caught somewhat unaware on a wide range of claims and exposures arising out of the Deepwater Horizon disaster. Defense counsel, insurance coverage counsel, and insurance industry professionals are now confronting a wave of litigation that will eventually change the nature of first property, liability, and environmental insurance. The White House and Congress have attempted to step into the breach and better regulate the oil drilling industry in an effort to prevent such disasters, but those regulations are not likely to stem the flood of litigation and creative insurance claims. Against the backdrop to this litigation, the insurance industry is reacting to the disaster in ways both creative and cautious.

Moderator: Michael T. Glascott - *Goldberg Segalla*, Buffalo, NY

Panelists: Jay R. Sever - *Phelps Dunbar*, New Orleans, LA

Stacy A. Broman - *Meagher & Geer*, Minneapolis, MN

Nadine Hunt-Robinson - *Zurich American Insurance Company*, New York, NY

Professional Liability

“Peace of Mind: Understanding the Defense Firm’s Potential Liability and Providing Protection”

The discussion will focus on defense lawyers’ liability to insurance carriers, insurance coverage for law firms, and emerging issues in legal malpractice defense.

Moderator: Charles J. Baker, III - *Buist Moore Smyth & McGee*, Charleston, SC

Panelists: John S. Wilkerson, III - *Turner Padgett Graham & Laney*, Charleston, SC

Richards H. Ford - *Wicker Smith O’Hara McCoy & Ford*, Orlando, FL

9:00 - 9:45 a.m. Business Meeting - FDCC President Tom Cordell - Frailey Chaffin Cordell Perryman Sterkel McCalla & Brown LLP, Chickasha, OK

**9:45 - 10:00 a.m. Preview of 2011 Annual Meeting - Williamsburg, VA
- Deb and John Kuchler, General Convention Chairs**

10:00 - 11:15 a.m. Keynote Speaker, Mike Mullane - “Stories from Space”



Colonel Mike Mullane was born in 1945 in Wichita Falls, Texas, but spent much of his youth in Albuquerque, New Mexico, where he currently resides. Upon graduation from West Point in 1967, he was commissioned in the United States Air Force. As a Weapon Systems Operator aboard RF-4C Phantom aircraft, Colonel Mullane completed 134 combat missions in Vietnam. He holds a Masters of Science Degree in Aeronautical Engineering from the Air Force Institute of Technology and is also a graduate of the Air Force Flight Test Engineer School at Edwards Air Force Base.

Colonel Mullane was selected as a Mission Specialist in 1978 in the first group of Space Shuttle astronauts. He completed three space missions and logged 356 hours in space aboard the shuttles Discovery and Atlantis before retiring from NASA and the Air Force in 1990. Colonel Mullane has been inducted into the International Space Hall of Fame and is the recipient of many awards including the Air Force Distinguished Flying Cross, Legion of Merit, and the NASA Space Flight Medal.

Since his retirement from NASA, Colonel Mullane has written and published the novel *Red Sky - A Novel of Love, Space & War*; the award-winning children’s book *Liftoff! An Astronaut’s Dream*; and a popular space-fact book, *Do Your Ears Pop in Space?* Mike Mullane’s memoir, *Riding Rockets, The Outrageous Tales of a Space Shuttle Astronaut*, has been reviewed by the New York Times and on Jon Stewart’s The Daily Show. Colonel Mullane has also served as a host for Inside Space, a nationally syndicated cable television program on the USA Network.

Please bring your whole family to listen and learn from Colonel Mullane’s inspirational, motivational, and humorous presentation of his astronaut experience.

NOTE: The FDCC reserves the right to change, delete, or modify the program, tours, topics, and/or speakers. All off-site elective trips have a minimum and maximum number of attendees. The FDCC reserves the right to cancel a trip if the minimum is not reached.



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2010-2011



THE 2011 LEADERSHIP INSTITUTE GOES TO WILLIAMSBURG

New, Improved, and Needed Now More Than Ever

“Leaders aren’t born, they are made. And they are made just like anything else, through hard work. And that’s the price we’ll have to pay to achieve that goal, or any goal.”

– Vince Lombardi

The need to develop law firm leaders was compelling when Wayne Mason conceived the idea of the FDCC Leadership Institute several years ago. It is even more compelling today. The stakes are getting higher. Competition is increasing. Loyalty is diminishing. Clients expect more from your firm. Civility, professionalism, and long-term perspective are under siege. Every law firm faces the dilemma of who will lead it into the future.

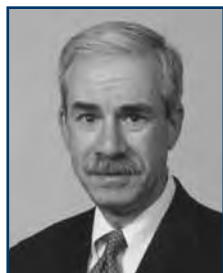
But all is not lost. The Federation’s highly acclaimed Leadership Institute is returning for its fourth year. This year, for the first time, the Institute will be held in conjunction with our Annual Meeting in Williamsburg from Monday, July 24 through Wednesday, July 26. Components of the Leadership Institute that have led to its rave reviews will remain. Attendees will participate in 360° leadership assessments and intensive break-out sessions examining concrete problems and solutions that face firm leaders. Nationally renowned experts will lead the way, assisted by some of the FDCC’s best and brightest as Conference Advisors.

Program innovations include a much more affordable price for participants, as the Institute takes advantage of efficiencies resulting from joining efforts with the Annual Meeting. Tuition will be \$895, with a special rate of \$295 for FDCC members also signing up for the Annual Meeting. Based on experience and feedback from prior participants, the Institute is opening the program to a limited number of FDCC members, with preference given to newer members. The Leadership Institute will offer such members a unique opportunity to bond with other new members. Non-members will get exposure to the FDCC and a peek at all the opportunities FDCC meetings and membership have to offer.

If you are a new member, sign up for a unique opportunity to hone your leadership skills and make some life-long friends. Members can still recommend their partners and colleagues.

When you’re in Williamsburg, keep an eye out for Leadership Institute participants and extend to them the fellowship that is an FDCC hallmark.

—Howard Merten



Edward M. Kaplan
Secretary-Treasurer

I wanted to take this opportunity to alert you to one of President Tom Cordell’s initiatives. In late November, 2010, the FDCC officers will be in New York City to attend the meeting of the Lawyers for Civil Justice. Before attending the LCJ meeting, the officers will meet to conduct a one day retreat. The purpose for this retreat is to discuss some planning for the future of the FDCC.

More specifically, it was President Cordell’s observation that each year a new president takes office and, to some extent, initiates his or her own agenda. Some times this agenda includes carrying on earlier initiatives by other presidents, and some times it does not. Often times, if the new president’s program is coordinated with an earlier president, it reflects coincidence rather than careful planning.

Under the concept of “not reinventing the wheel”, the officers’ retreat will address at least coordinating President Cordell’s year with that of President-Elect Neil and my upcoming year. Perhaps we can put in place plans that will be supportive of each other and put in place collective initiatives rather than a single presidential initiative.

The purpose of the retreat is not, of course, to limit new ideas or creative thinking by incoming presidents. Rather, it is to see whether or not these ideas, when discussed ahead of time, can be better coordinated and planned so that they become even more effective and more likely to improve upon our already great organization.

On another front, I am happy to report that as we close the books on President Lucey’s fiscal year (October 1 to September 30), our financial position is strong. Although there remain a few items for final year end adjustments, our results for the year are within one percent of budget in all categories.

ABOVE AND BEYOND

A History of the Federation of Defense & Corporate Counsel

The Federation was founded on April 9, 1936, as an international organization dedicated to the principles of knowledge, justice, and fellowship.




[Read More](#)



ENHANCING THE VISIBILITY OF A GREAT ORGANIZATION

The Officers and Board of the Federation continue to prioritize raising the visibility of the FDCC. Increased visibility benefits everyone. It enhances our individual reputations within our legal communities, our firms, and with clients. It helps justify our participation in FDCC events. It also helps the FDCC recruit and retain new members.

The Visibility Committee is working hard to identify opportunities to enhance the FDCC's visibility and reputation. We have set a number of goals for the coming year. You can help.

■ *We want individual members to highlight the distinction of Federation membership on their firm websites.* We have started a campaign to encourage members to augment their firm website biographies by displaying the FDCC logo and linking that logo to the FDCC website. Check out your bio and the bios of some of your FDCC friends. You will be surprised to see that many of us highlight distinctions like "Super Lawyers" or "Best Lawyers" more prominently than our membership in the FDCC. Now, I like being a "Super Lawyer;" it sounds awesome. But I know that membership in the FDCC is a far more meaningful honor. The rest of the world should know that, too. Adding the logo  to your bio and linking it to the FDCC website is simple. Check out our own Mike Lucey's, Mike Nelson's, and Wayne Kreuzscher's bios to see how it is done. (See, visibility works!)

■ *We want to populate our new media page.* We have designed a media page for our website and are working on ideas to fill it with references to the great work and triumphs of FDCC members. Collectively, Federation members devote thousands of hours to special projects and the creation of cutting edge programs and unique and valuable work-product. That work is being done by the Defense Bar's best and brightest, all of whom are leaders in their fields, firms, and communities. So, if FDCC members are doing all of this fabulous work anyway, we should leverage it to bring as much honor and recognition to the group

and its members as possible. If you are working on a paper for Indian Wells, you will hear more about this project shortly.

■ *We are developing "marketing materials" for the FDCC, describing the Organization for media, new recruits, and people who will be contacted by the admissions committee.* If you are contacting a judge to screen a prospective member, or asking a general counsel to speak at an upcoming FDCC program, we will develop materials that you can provide to them to let them know what a great organization the FDCC is and all that it does.

■ *We have initiated a Marketing Director Advisory Panel.* Several Visibility Committee members have volunteered the time and expertise of their firm's marketing personnel to help us brainstorm ideas to make the FDCC more visible. They will be reviewing our efforts and giving us insights on how to enhance the reputation and recognition of the FDCC.

These are just some Visibility Initiative highlights. Visibility has already made great strides under prior chairs, Mike Lucey and Mike Nelson, and a small army of volunteers. Press releases go out for each newly admitted member; a new webinar series with the PLRB highlights the role of FDCC members; the FDCC is up and running on Facebook and LinkedIn. If you'd like to be part of this project, contact me at hm@phs.com, or any of the vice-chairs listed on the FDCC website. We have a lot left to do.

— Howard Merten
Chair, Visibility Committee



LITIGATION MANAGEMENT COLLEGE AND GRADUATE PROGRAM

JUNE 12-16, 2011

The seventeenth annual Litigation Management College and the eighth annual Graduate Program of the Litigation Management College are scheduled for June 12-16, 2011 at Emory University Conference Center in Atlanta, Georgia. Our annual goal for enrollment is 75-100 students for the College and 25 students for the Graduate Program, and would entertain qualified students FDCC members may wish to recommend.

The FDCC looks forward to providing claims professionals a sophisticated level of training offered by experts in negotiation, evaluation and litigation. The Litigation Management College has earned an international reputation as the premier advanced litigation training course for claims professionals. The College offers an intensive four-day experience of workshops, based on a case study and participatory interactive educational experiences. The curriculum is fast-paced and cutting-edge with a practical approach to litigation management. The program provides a unique opportunity for claims professionals to explore, study, and discuss issues of current interest.

The College is sponsored by the FDCC as a service to claims professionals, third-party administrators, and self-insured corporate litigation managers working in the insurance industry or in corporate law and claim departments handling litigation matters. The College is designed for claim and litigation management professionals with five to fifteen years' claims or litigation management experience.

The Graduate Program consists of an intensive 32-hour classroom and workshop curriculum intended to expand the litigation management, evaluation, and negotiation skills learned in the College. It builds upon the solid foundation provided by the College to further refine the students' understanding of advanced insurance coverage issues, strategic litigation tactics, and alternatives for resolution of disputes on favorable terms. It allows the students to gain additional experience and participation in application of their skills in a cost effective manner with any type of litigation challenge that may arise in their workloads.

Students have included representatives from Acadia Insurance, Zurich North America, Harleysville Insurance, EMC Insurance, Axis Insurance, Century Surety Company, Dollar General Stores, Liberty Mutual Insurance, Hanover Insurance, Hartford Insurance, Mountain States Insurance, Dean Foods Company, Infinity Insurance, AIG, RSUI, General Star, Akzo

Nobel, NGM Insurance, Guilford Specialty, IMT Insurance, and Mitsui Sumitomo Insurance.

Every year, both the LMC and Graduate Programs receive rave reviews from students. "Excellent, intensive, hands on/real practice exercises with high potential for mental retention". "The faculty is so knowledgeable and very willing to take the time to answer questions and assist in any way they can." "Great group of speakers." "This was the best seminar I have attended in 15 years." "I was not just pleased or pleasantly surprised, I was shocked at the quality of this program."

The faculty of the College and the Graduate Program consists of numerous prominent attorneys and insurance industry executives, all of whom are members of the FDCC, and many of whom have devoted years of service in educating class after class of students. The College also provides professional jury consulting services as a part of the experience. The College and Graduate Program each offer presentations by Audrey Nelson, Ph.D. of Nelson Communications in Boulder, Colorado. Dr. Nelson is an internationally recognized trainer, keynote speaker, and consultant specializing in gender communication, conflict management, dealing with difficult people, and communication skills.

We believe the students attending the 2011 Litigation Management College and Graduate Program will have an excellent experience and take home skills which they can utilize in their everyday job performance. A new fact pattern is being developed for 2011 to offer an even more cutting edge experience. A full description of both the College and Graduate Program, as well as applications which can be downloaded, may be found on the FDCC website, www.thefederation.org.

Greg Witke
Dean, Litigation Management College

Scott Kreamer
Dean of Curriculum, Litigation Management College

Jim Foster
Dean, Graduate Program



*Mills & Carol Anne Gallivan
Convention Chairs*

Federation members never disappoint and we knew that we could count on you to make the Ultimate Federation Experience an Ultimate Federation Memory. Munich was our first meeting on the continent of Europe and, by any standard, it was a huge FDCC success, as there were 616 members and guests in attendance!

Our activities kicked into full swing on Saturday July 24th with walking and bike tours of Munich, which were well attended, despite some rain and cool weather. On Sunday, more members participated in the walking and bike tours, while a large group visited Dachau. The Hofbrauhaus dinner on Sunday night gave us a taste of Bavarian culture, cuisine, and beer. Everyone enjoyed this event at the historic and most famous beer hall in Europe!

Monday's Early CLE was also well attended and provided us with a great perspective on the distinctions between the US and European Legal Systems. The entire week's CLE was outstanding. Many thanks to Deb Kuchler for being our wonderful Program Chair! Also, kudos to John Kuchler and his helper, Marge Hagan, for keeping the Registration Desk running smoothly throughout week.

The return of Fellowship Day on Tuesday was a big hit. Our tours of Neuschwanstein, Regensburg, and the Chiemsee were filled to capacity and the stories from these tours were continuously regaled throughout the remainder of the week. Fellowship Day ended with a Dutch Treat Dinner at the famous Augustiner Keller. Tired, but undaunted, our members showed that the FDCC can dominate a beer hall with grace and style.

Wednesday morning Mike Lucey welcomed our new members to the FDCC, and then we all were welcomed to Munich



Munich ♦ "The Ultimate Federation Experience"

by Dr. Beate Merk, the Bavarian Minister of Justice. Another outstanding CLE program was followed by a tour of the Justizpalast with time at the end of the tour to wander around the Old Town. King Mike and Queen Jenny Lucey's Reception in the Prunkhof Courtyard of the Neus Rathaus took us back to the very essence of Munich's medieval history. This event was followed by a traditional Bavarian feast in the Ratskeller, ending with their custom of waiters parading dessert through the rooms

while waving sparklers. It was a grand celebration none of us will forget.

Thursday's activities included tours of Schloss Nymphenburg and the Alte Pinakothek. The Ultimate Theme Party started with a fabulous buffet at the hotel followed by a short bus ride to



States, our BMW contact, Cindy Ryerson, informed me that BMW was so impressed with the FDCC that they had decided to waive the previously agreed upon charges for our Ultimate Theme Party. This is a magnanimous gesture on BMW's part. So, when you are looking for your next car, I would encourage you to first look at a BMW. If you have any questions about any of BMW's fine motorcars or their European Delivery Program, please contact Cindy at Cindy.Czock@bmwna.com Please let us know if you decide to buy a BMW, as a result of your visit to their impressive Munich facility; we would love to inform them of your purchase.

Our last day was filled with Mountain Hiking, Biking along the River Isar (in a major thunderstorm), and a beer tasting at Kloster Andechs. The Bowtie Bavarian Ball concluded a magnificent week, as we dined in an elegantly appointed candle-lit ballroom. Donned in bowties, of course, and Bavarian crowns, we danced the night away to the sounds of Da Capo. Our week ended all too soon, as we said, "Aufweidershen" to our wonderful FDCC friends and headed home, or to other parts of Europe.

One of the real highlights for our members was the opportunity to see and experience other areas in Europe, before or after the meeting in Munich. It was so much fun to listen to the stories of where members had been or were planning to go. Mike Alyward has offered to create a

compendium of European travel highlights based on your best experiences in hotels, restaurants, museums, and tourist attractions. Send the highlights of your trip to maylward@morrisonmahoney.com and these "greatest hits" of European travel will be posted on the Federation website later this year for your use and enjoyment in planning future trips to Europe.

We wish to thank Mike and Jenny for trusting us with "Mission Munich" and for all of their wonderful support throughout this grand adventure. We also want to thank Marty, Mike, Susan, and Mary Nell, the fabulous staff, who took care of us

24/7 while we were in Munich. A huge thank you also goes to our Ultimate Federation Hosts for all of their help in planning and implementing seven days of non-stop tours, activities, and events. They did everything and more that was asked of them and made sure that every person in their care was returned safely to the Westin. Finally, we want to thank each one of you who traveled all the way to Munich, Germany to attend this meeting. Because you were there to work and celebrate with us, the meeting surpassed our greatest expectations and was, indeed, the "The Ultimate Federation Experience"!





AWARDS AT ANNUAL CONFERENCE IN MUNICH

Congratulations to the Award Recipients:

John Appleman Award:

Honoring the Substantive Law Section Chair who has made the most outstanding contribution to the advancement of the FDCC's educational goals through the work of his or her section.



Rebecca Levy-Sachs,
Robinson & Cole, LLP,
for her work as Chair of
the Property Insurance
Section.

Andrew C. Hecker Award:

Recognizes the Federation member who authored the year's most outstanding *FDCC Quarterly* article.



Thomas R. Jayne,
Thompson Coburn LLP,
for his article: "The Use
and Abuse of Differen-
tial Diagnosis to Prove
Causation in Toxic
Torts", (Fall 2010)

Corporate Member Award:

Is given to a Corporate or Industry member who has made a particularly meaningful contribution to the Federation.



Cindy J. Williams,
Hinsdale, Illinois is the
recipient for 2010.

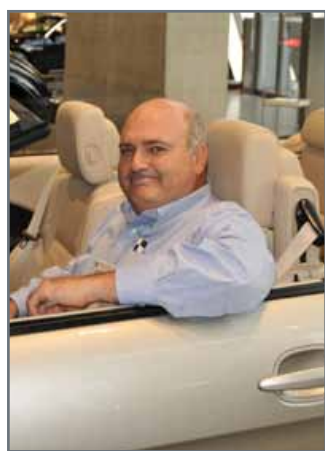
Joseph R. Olshan Award:

Presented annually to the chair of a committee who has made the most outstanding contribution to the advancement of the FDCC's aspirational goals.



W. Michael Scott,
Beirne, Maynard & Par-
sons, LLP, was given this
honor for his work as
Chair of the Corporate
Counsel Steering Com-
mittee.





ETHICS HOTLINE

JUDICIAL INDEPENDENCE AND JUDICIAL ELECTIONS

Michael J. Brady
Ropers, Majeski, Kohn & Bentley

Democracy is often a bit messy; but, as Churchill once said, no system is better. There has always been tension between the concept of “judicial independence” and the tradition in the western and southern U.S. that judges are elected, or stand for approval before the voters periodically. It would be anti-democratic to claim that judges are never subject to criticism and that they are free to make whatever decisions they choose, without fear of voter disapproval. It’s just not that simple.

For example, here in California, in 1986, the voters threw Rose Bird off the Supreme Court, along with two liberal colleagues—all of whom refused to uphold any death penalty conviction, despite the fact that the U.S. Supreme Court and the California Supreme Court had upheld the death penalty in California as constitutional. A careful study of their death penalty decisions (reversing the convictions) demonstrated that the justices seized on the most trivial error, which could not possibly have prejudiced the prisoner, as an excuse for reversal of the most heinous cases imaginable. Today, we have a person on death row who was convicted when Jerry Brown was last governor 30 years ago!

This writer in 1986 went “on the road”, campaigning against Rose Bird and her colleagues. In California, the voters periodically get the chance to answer yes or no as to whether an appellate court or supreme court judge should “remain” in office; my argument was that the voters should vote “no”, because these justices had not upheld their oath of office to uphold the Constitution (here comes that pesky old document again!). Such decisions are not left to lawyers—the general populace can un-

derstand the issues, and they did—overwhelmingly voting to unseat three sitting Supreme Court Justices. The state survived and none has been thrown out since, because we have not seen such egregious failures to follow the Constitution. In short, democracy worked as it should. The “establishment” bar was horrified at

the public vote, as they usually are. But they forgot the delicate relationship between the judiciary, the Constitution, and the power of the electorate.

In San Francisco, we currently have a very interesting phenomenon going on: respected incumbent judges are up for a vote. At the TRIAL court level, California allows periodically someone else to run against the sitting judge. The gay community in San Fran-

cisco is highly organized, wealthy, and fairly numerous as a percentage of likely voters. Accordingly, they have considerable political power. This community has for several years adopted the strategy of running gay candidates against these straight, respected incumbent judges. Many have qualms about this: why should your identity as a member of a GROUP entitle you to the seat? But this is but another form of democracy at work; like freedom of speech, you have to take the bad with the meritorious, and if you believe strongly enough, you should simply go out and campaign for the person who is best on the merits and convince the voters that that is the only justifiable criterion. Churchill was right: democracy is the worst form of government—except for all others.



Worms, Viruses and Zombies (OH MY!)

*Gamelah Palagonia
Frank Crystal & Company*



Cyber criminals use sophisticated automated tools to scan the Internet for vulnerabilities. By exploiting legitimate websites, cyber thieves have been able to implant malicious code, which then attempts to infect each of the site's visitors. This is commonly referred to as an SQL injection attack. SQL injection is a code injection technique that exploits a security vulnerability occurring in the database layer of an application (software/program).

While SQL injection attacks are the favored technique among cyber thieves, email phishing scams are still of great concern. Phishing is a virtual trap set by cyber thieves that uses official looking emails to lure unsuspecting victims to fake websites that trick them to reveal personal information. According to the FBI, a more mischievous type of phishing known as "spear phishing" is a rising cyber threat that is targeted to a specified group. Instead of casting out thousands of emails randomly hoping a few victims will bite, spear phishers target select groups of people with something in common: they work at the same company, bank at the same financial institution, attend the same college, or order merchandise from the same website. Social networking sites have made prospecting much easier for spear phishers. Lawyers, doctors, and many other professionals have Facebook pages and tweet updates to their followers via their Twitter blog.

We have seen a drastic increase in the volume of personally identifiable information (PII) that is available online, as social networks and user-generated content have allowed millions of people to create and share their data online. Facebook, My Space, and Twitter have all been victimized by hackers. The FTC's (www.ftc.gov) first case against a social networking site charged that serious lapses in Twitter's data security allowed hackers to obtain unauthorized administrative control of Twitter, including access to non-public user information, tweets that consumers had designated private, and the ability to send out phony tweets from any account including those belonging to then-President-Elect Barack Obama and Fox News, among others.

Facebook's Koobface worm targeted Microsoft Windows users of Facebook, My Space, and Twitter. Upon successful infection, Koobface attempts to gather information from the victims such as bank account and credit card numbers. Koobface spread by delivering Facebook messages to people who are "friends" of a

Facebook user whose computer has already been infected. Upon receipt, the message directs the recipient to a third-party website, where they are prompted to download what is purported to be an update of Adobe Flash player. If they download and execute the file, Koobface is able to infect their system, which can render the victims computer a robot or zombie by commandeering the computer's search engine use by directing it to contaminated websites.

The other Facebook "like" worm is called "Clickjacking", which is a web coding technique that runs a javascript or flash program within a user's browser. The program is invisible to the user, and once activated takes over the user's mouse, forcing it to choose the "like" option for the same link that infected them, thus spreading it to all the user's Facebook friends. Simultaneously, keylogger, spyware, and other malicious programs are installed onto the user's computer. This "like" button worm infected hundreds of thousands of users.

Think Before You Click!

In summary, internet use and its inherent risks are increasing not diminishing. Organizations and individuals must develop sound risk management practices to protect their information assets from being compromised by cyber criminals. The risk management techniques of Loss Control and Risk Transfer must be deployed concurrently to have the greatest impact.

Securing the proper insurance is the most effective Risk Transfer technique as contractually transferring the risk to a third party doesn't alleviate the legal liability. Ultimately, organizations that outsource to third parties are responsible for the security of confidential customer and employee information and cannot effectively transfer the liability that arises from security breaches sustained by third party vendors.

The cyber insurance policies available in today's marketplace are extremely complex. It is essential to have an experienced insurance broker that stays ahead of the curve when it comes to cyber risk containment and cyber liability risk management. Cyber risk cannot be completely eliminated but it can be mitigated and controlled with sound cyber risk management controls, information security policies and the proper insurance. Please contact the cyber experts at Frank Crystal & Co., Inc. to schedule a cyber insurance consultation.

SEVENTH ANNUAL CCS DRAWS DOZENS OF CORPORATE COUNSEL



The 7th Annual Corporate Counsel Symposium, held in Philadelphia September 21-23, 2010, was a tremendous success. The CCS provided programming on current hot topics facing corporate counsel in today's changing world. More than 100 people attended, including dozens of in-house counsel who

every day face new risk and litigation attacks upon their companies. The theme of this year's CCS, *Protecting the Company in a Changing Economy: Best Practices for In-House Counsel Who Manage Corporate Risk and Litigation* was developed from a survey of FDCC corporate counsel members. The Symposium clearly held interest for attendees, as it drew more than 50 corporate counsel from around the U.S. The program itself, which included 22 in-house presenters, as well as legal industry consultants and public interest advocates, received high praise from those who attended. Presenters included corporate counsel from Boston Scientific Corporation, FedEx, DuPont Legal, Liberty International, Dryvit Systems, The Hershey Company, Ryder System, The Acadian Companies, U.S. Bank, Ford Motor Company, Prudential Insurance, Exxon Mobil, American Nuclear Insurers, Quanta Services, Mathews International, Cooper Tires, and Evanflo Company. The panelists addressed timely topics, including controlling legal department risks and costs, the use of alternative fee arrangements in hiring outside counsel, personalizing the corporation in trial, smart writing in the corporate environment, impact of the internet on corporate risk, managing company obligations in the shifting employment law landscape, and corporate compliance issues. Other speakers addressed governmental updates and benchmarking for corporate law departments. Attendees also had the opportunity to relax at a variety of social events, including a golf outing graciously sponsored by Habif, Arogeti & Wynne, LLP. Additional Symposium sponsors included Major, Lindsey & Africa; Atlas Settlements; Thomas G. Oakes Associates, Engineering Systems, Inc.; and SEA Limited. This year's Symposium Co-Chairs, Cindy Williams and Mike Bonasso, did an excellent job planning and organizing the event. Joe Garza and Leslie O'Toole put together an outstanding program. Dave Nicholas and Reid Manley headed up the very successful marketing effort for the CCS. Next year's Symposium Committee has already started planning. The 2011 CCS is headed back to Philadelphia September 20-22, 2011. Mark your calendar now for what will surely be another outstanding Symposium.

FDCC CALENDAR OF EVENTS

2011

February 26 – March 5, 2011

Winter Meeting

Hyatt Grand Champions Resort & Spa • Indian Wells, CA

June 12 -16, 2011

Litigation Management College

Emory University • Atlanta, GA

June 12 -16, 2011

Graduate Program of LMC

Emory University • Atlanta, GA

July 24-31, 2011

Annual Meeting

Colonial Williamsburg Resort • Williamsburg, VA

September 19-20, 2011

P & O Leadership Meeting

Four Seasons • Philadelphia, PA

September 20-22, 2011

Corporate Counsel Symposium

Four Seasons • Philadelphia, PA

November 16 – 18, 2011

Insurance Symposium

New York Athletic Club • New York, NY



Mike Neil
President-Elect

Click here
to read the
entire story


Sunday
June 14, 2009

The San Diego
Union-Tribune

The Marines called him GTO. Mike Neil thought of him as a son. Now, 40 years later, Neil returns to battle his demons – and find the boy.

THE VIETNAM VET AND HIS LONG-LOST FRIEND

STORY BY JOHN WILKENS, STAFF WRITER

People sometimes ask Mike Neil if he ever thinks about the Vietnam War.

"Every day," says Neil, a retired Marine brigadier general. It's not just the combat, the night ambushes and hours-long firefights in the jungles and rice paddies near Da Nang. It's not the five Navy Cross he earned for taking out an enemy machine-gun nest.

Mostly what he remembers from his 13-month tour are the people left behind — the dead and the living.

Earlier this year, the ghosts called him back, as ghosts have been doing to military veterans for hundreds of years.

"Something felt unfinished," Neil said.

He wanted to see some of the battlefields, leave laminated photos of two friends at the places where they were killed. And he wanted to find GTO.

GTO was a boy befriended by Neil's platoon. He was 11, the ringleader of a group of children who wandered over regularly from their village to a nearby bridge the Marines were guarding. His father was the village barber.

"He was smart as a whip, very likable, and we kind of adopted him," Neil said.

The boy spoke English fairly well. He knew all the words to the song "G.T.O.," which is how he got his nickname.

Neil bought GTO his first shoes, a pair of black leather lace-ups. He took him to a Bob Hope show, where they stood on the stage next to Raquel Welch. He sneaked him behind the wire for a Christmas party at Delta Company's camp on Hill 41.

He also showed the boy and his friends how to tell the difference between Marine and U.S. Army vehicles, and taught them how to salute the Army ones in a special way — with their middle fingers

extended. In wartime, you get your laughs where you can.

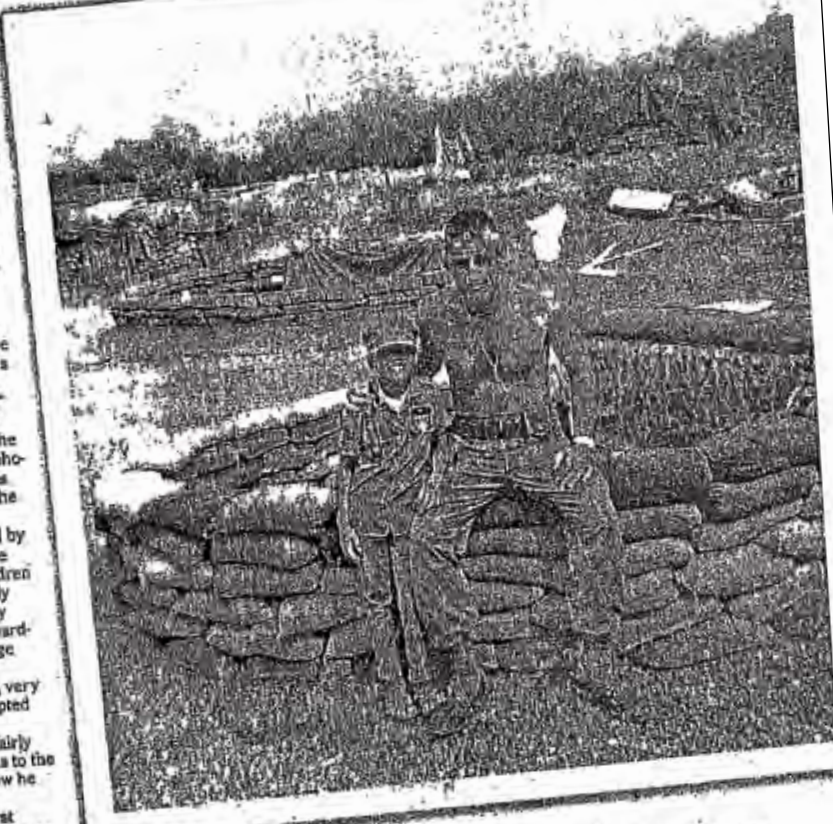
Neil, 68, thought about all this as he left San Diego seven weeks ago for a return to Vietnam, his first since the war. He had with him 60 files his wife, Jan, had made up featuring a collage of black and white photos of GTO from four decades ago.

"He would say, 'Wouldn't it be great to find GTO?' and I would just roll my eyes, because there was no way it was going to happen," Jan said. "After this much time has passed? He didn't even know his real name."

The trip was with Vietnam Bab-

SEE Vietnam, A10

Mike Neil of San Diego, who was deployed to Vietnam in 1967, befriended a Vietnamese boy whom his fellow Marines nicknamed GTO because he knew all the words to the song. Mike Neil



A10

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▶ VIETNAM
CONTINUED FROM A1

Neil once owned a bar, ran with bulls in Spain

(Jefield Tours, a Texas-based nonprofit that has been taking veterans back since 2005. Bob Burke, a retired Marine sergeant who led Neil's tour, said the journeys are always emotional.

"There's no one reason why people decide to return," Burke said. "It's personal, and the feelings are always just below the surface. You can see it in their eyes when they first get there."

Neil had a rough idea where the village was, but so much has changed since the war. Hills that used to be bare are now lush with vegetation. Reservoirs have inundated valleys. New buildings are everywhere.

On the fourth day, they found the bridge the Marines had guarded, and then the village, Duong Lam. Neil, working with a translator, started handing out fliers.

One older woman said she recognized the boy. She went off and came back with a cell phone number.

The translator called. A man answered.

Thoughts of Vietnam

His father was a Marine for 30 years, but Neil grew up wanting to be a lawyer. He attended Boalt Hall at the University of California Berkeley. One night there in December 1965 he went to see a documentary film.

The anti-war movie had footage of a Marine helicopter getting shot down. It showed the pilot exiting the wreckage and the Viet Cong shooting him. Neil said other moviegoers cheered and clapped.

He joined the Marines the next day.

They sent him to officers school after he finished his law degree. He asked to be infantry, a grunt, so the Marines made him a platoon commander with the 1st Battalion, 70th Marine Regiment, 1st Marine Division. He was 26 and a second lieutenant when he arrived in Vietnam in June 1967.

Six months later, he earned the Navy Cross, the second-highest award for valor. The battle at Phouc Ninh was in the dark, in dense vegetation. Some of it was hand-to-hand combat — "a terrible night," Neil said. About one-third of his 25-man platoon was killed or injured.

The citation for his medal reads like something from a "Rambo" movie: drawing enemy fire so others could



Mike Neil recalled how GTO, the Vietnamese boy, was "smart as a whip" and "very likable." Photos courtesy of Mike Neil



Neil said his Marine platoon "kind of adopted" GTO, once sneaking him into a Christmas party.

move forward; taking off his armored vest to put it on a wounded comrade; tossing hand grenades while rushing a machine-gun emplacement.

But when his tour ended, Neil didn't return home to a hero's welcome. The public, he said, didn't care about the sacrifices. That left him bitter and disillusioned.

When the war finally ended, with the Americans withdrawing in 1975, his disappointment grew.

"I felt our government sold out and abandoned Vietnam," Neil said. "We left a lot of good Vietnamese people on their own. Then when the Communists overran the country, it left me and a lot of other veterans with tremendous feelings of guilt."

By then, he and Jan were married and he was in the Marine Reserve. They settled near Mission Bay and had two children: Megan, now married with two young children and living in Phoenix, and Sean, now a middle-school science teacher in Clairemont.

Jan Neil said her husband had trouble sleeping from time to time in the early years after he returned from Vietnam.

"He didn't always talk much, but I knew he'd seen some horrific things," she said. "He lost some close friends over there."

As he built a law practice specializing in personal litigation, Neil gained a reputation around town as someone larger than life, square-shouldered, proud of his Irish heritage, quick with a quip.

He was like a character from an Ernest Hemingway novel. He co-owned a downtown bar, Reidy O'Neill's, for several years. He ran with the bulls at Pamplona. He commanded a tank battalion in the Marine



In September 1990, during the Persian Gulf War, Neil returned to active duty and served nine months as the commander at Camp Pendleton. He retired two years later.

Through it all, Vietnam was never far away. He thought a lot about Larry Smedley, one of his squad leaders, posthumously given the Medal of Honor, the nation's highest valor award, for actions taken in the same battle that earned Neil the Navy Cross.

He thought about Frank O'Brien, who was in his officers class, killed in action March 24, 1968, on what was supposed to be his final day in the field before his tour ended.

And he thought about the boy.

"GTO was the closest Vietnamese person to me," Neil said. "We had an almost father-son relationship. I felt some guilt about him, about leaving him, and I needed some closure. I wanted him to be OK."

Facing ghosts

Nine former Marines were on the two-week, \$3,100 tour, and they all had places they needed to go, ghosts they needed to face.

"Vietnam carries so many memories for these guys," said Burke, the tour guide. "Some haven't talked about what happened there for 40 years. They have a lot of anxiety, but as the tour progresses, they relax. Nobody's shooting at them this time."

Neil was there with two other San Diegans, Mike West and Mike Barksdale.

"I don't know what we expected to see after 41 years, but it was still a great feeling to get back and walk that ground

When Mike Neil returned to Vietnam about two months ago, he tracked down GTO, now a middle-aged husband and father, whom Neil declined to identify by name.



The reunited friends shared a five-hour lunch, and a tearful goodbye. Neil said he hopes to return again to Vietnam.

again," said Barksdale, who flew helicopters in Vietnam and was in Neil's battalion. He is now a corporate pilot for Qualcomm.

Barksdale said each place they stopped, the ex-Marine who was there during the war would tell his story. When they heard why Neil wanted to go to Duong Lam, they all had the same reaction: "Fat chance," Barksdale said.

But then they were in the village, and Neil was passing around the fliers, and suddenly the translator was talking on the phone to a middle-aged man.

"Ask him what his nickname was," Neil told the translator. He didn't want to be duped.

The translator spoke into the phone in Vietnamese, then turned to Neil. "He said the Marines all called him GTO."

Neil still wanted to be sure. "Ask him what his father did for a living."

"He said his father was the village barber."

They made plans to meet two

days later. Neil and Barksdale were going to take a cab for the 20-minute ride from their hotel. But GTO was already waiting for them in the lobby.

"He said he couldn't sleep all night, so he just got up in the morning and drove over," Neil said. "It was very emotional seeing him."

Neil said GTO's English has fallen off over the years, "but he still had the same personality, the same energy."

They shared a five-hour lunch, catching up on each other's life with the help of a translator. GTO is a successful businessman, married with four children.

"It was fulfilling to know he had lived through it all and done well," Neil said.

When they parted, "there were tears in our eyes," Neil said. "But I'll see him again. I want to go back."

He knows GTO's real name now, but Neil asked that it not be published. He said his friend

is wary of possible repercussions from his association with Americans — then and now.

GTO did not respond to e-mail requests for an interview. His cousin, in an e-mail to Neil, said, "He has his own career in the Vietnamese government, so he can't reply (to) the reporter's e-mail. He said he was sorry about that."

Now, almost two months after his trip, Neil finds himself taking on another mission. GTO has a 14-year-old son who would like to attend college in America. Neil has been talking to immigration officials about making it happen.

He also finds himself talking more about Vietnam, opening up with family and friends about his experiences there.

"A lot of things that had bothered me came off my back," Neil said. "I feel at peace with the country."

John Wilkens: (619)293-2236; john.wilkens@uniontrib.com

Sister Organization Cooperation

Currently, the sister organizations (FDCC, IADC, DRI, and ADTA) are in an era of unprecedented cooperation. The relationship between the sister organizations has not likely ever been better.



Michael T. Lucey
Chair

To build upon this strengthening relationship, we have agreed with our sister organizations to jointly pursue issues that will benefit the defense bar as a whole. It was decided that in any given year there should be at least one, if not two, issues about which all of the sister organizations can come together and work to pursue. This will have the benefit of increasing intra-organizational cooperation, and it will also benefit all of our members as we combine forces to address issues that are important to our membership.

The issue this year is pre-emption. As many of you know, the issue of Federal pre-emption for medical device and pharmaceutical litigation is very active at the present time. The ABA recently presented a white paper in support of pre-emption, over the objections of the sister organizations and many of its own members. The sister organizations have appointed a joint task force to speak out on the pre-emption issue wherever possible. The task force is composed of members from each of the organizations, and will present our viewpoint both electronically and in the print media. If you would like to be involved in the pre-emption joint task force, please let FDCC President Tom Cordell know.

The sister organization presidents meet at every convention. Our next meeting will be at the IADC Mid-year Meeting in Monterey in February 2011. At that time, we will address another issue about which we will come together to support or oppose as the case may be. If you know of issues that are common to the entire civil defense bar, please let Tom or me know, and we will propose those in advance of our next meeting with the sister organization presidents.

MEMORIALS

- **Charles C. Cassis** of Louisville, Kentucky, *Member since 1980*
- **Alan D. Hunter** of Calgary, Alberta, *Member since 2002*
- **Lisa M. Le Nay** of Los Angeles, California, *Member since 2007*
- **Pat Sheehan**, of Albuquerque, New Mexico, *Member since 1957*
- **Georganne Conley**, the wife of former FDCC President Scott Conley

CLE CREDITS

Phil R. Richards, CLE Chair

2010 Annual Meeting Credits

Munich • July 24 - 31, 2010

STATE CREDITS	GENERAL CREDIT	ETHICS NO.	COURSE
*Alabama	9.50	1.30	
*Arkansas			
*Colorado	12.00	1.50	
Florida		PENDING	
*Georgia		PENDING	
Illinois	9.75	PENDING	
*Indiana	9.80	1.30	0134812
Iowa	9.75	1.25	71818
*Kansas	11.50	1.50	86959
*Kentucky	9.75	1.25	115308
*Louisiana	9.75	1.25	0656100726
Minnesota		PENDING	
*Mississippi		PENDING	
Missouri	11.70	1.50	
*Nevada	9.50	1.00	027-BIO-OU
*New Hampshire		PENDING	
*North Carolina	9.75	1.25	3550 / 2
*Ohio	9.75	1.25	000219266
*Oklahoma	11.50	1.50	
*Oregon	9.75	1.25	380*58
*Pennsylvania	9.50	1.00	135282
*Rhode Island			
*South Carolina		PENDING	
*Tennessee	7.50	2.25 (DUAL)	098343
Texas	9.75	1.25	901208064
*Utah	14.00	3.00	
*Virginia		PENDING	
Washington		PENDING	
West Virginia		PENDING	
*Wisconsin		PENDING	
*New York Approved Jurisdictions			

For CLE questions, please contact
Francie Berg at fberg@mahoney-law.com

The Federation of Defense & Corporate Counsel Foundation is alive and well. As John Fitts explained in the last edition of the Flyer, the Foundation Board authorized the creation of a Foundation Committee to assist the Foundation Board in



John R. Woodard, III
Foundation President

a few critical areas. Jean Lawler chaired the Foundation Committee and its first meeting was held at The Homestead, followed by meetings in Orlando and Munich, where Bill Tooms assumed the Chair of the Committee to aid the Foundation and its leadership.

The members of the Foundation Committee are committed to a number of activities:

- Advancing the date of the Foundation's annual request for contributions so that members had more time to include the Foundation in their tax planning;
- Enhancing the Foundation's presence on the FDCC website;
- Developing a program that accesses law firm and corporate charitable giving, including any employer matches;
- Undertaking other fund raising techniques at our meetings, similar to the auction that was held at the 2010 Midwinter meeting in Orlando; and
- Developing a plan to endow the Foundation at a level that will ensure that it can continue to provide the level of service desired by its members; and
- Surveying Foundation members to ensure that the Foundation is meeting their needs.

For the 2010 Midwinter meeting in Orlando, the Foundation presented a Foundation Forum led by David Maister. David Maister is widely acknowledged as one of the world's leading authorities on the management of professional service firms. Mr. Maister has been writing and lecturing on these businesses for over two decades. An author of several books including "Managing the Professional Services Firm" and "The Trusted Adviser", he was a professor at Harvard Business School for seven years before becoming a sole-trading consultant 20 years ago.

In Munich the Foundation held elections, with Bill Roedder being elected Secretary-Treasurer to follow Sue Popik and me in the chairs of leadership for the Foundation. The Foundation Board also approved a Federation Forum to be held at the Williamsburg meeting in the summer of 2010. More information

will be provided by the FDCC and its president and Convention chair.

Soon, you will be receiving the 2010 Annual FDCC Foundation Report and an invitation to provide a tax deductible financial commitment to the Foundation. You can make an annual financial contribution or, better yet, consider becoming a Foundation Fellow either at the basic level or at one of our newly created advanced levels of participation. For details about the Fellows program, please contact me.

Members may also make memorial contributions or contributions in honor of someone for the reason specified by the donor. Moreover, contributions can take the form of stock and other securities or real estate, or you can name the Foundation as a beneficiary of your retirement plan, life insurance policy, or make a gift through a living trust or by will. If you have any stock that has appreciated over time (yes there are still some stocks like that out there) this is a great way to avoid capital gains taxes and take credit for the full value of your stock as of the date it is transferred to the Foundation.

The Foundation continues to be appreciative of those members who have provided financial support. We hope that you are benefitting from the programs and initiatives sponsored by the Foundation and that it will have your continued support in the future.



*The purpose of the Foundation is to promote civil justice by improving the functioning of the civil justice system, fostering the continuing education of lawyers in the defense of civil litigation, and sponsoring programs, projects, and other endeavors that enhance the quality of legal practice and services in that area of the law. In furtherance of this purpose, the Foundation makes a number of grants each year, primarily to sponsor the Federation Foundation Forums presented at annual conventions, and to support selected FDCC initiatives.

FDCC ANNUAL MEETING

COLONIAL WILLIAMSBURG RESORT | WILLIAMSBURG, VA

SUNDAY, JULY 24 – SUNDAY, JULY 31, 2011

Come help us top off the celebration of the FDCC's 75th Anniversary in Colonial Williamsburg, Virginia at our 2011 Annual Meeting. Tom and Ann Cordell will reign over the festivities as we merge the historic with the current and look into the future. Join your colleagues, friends, and family as we remember with fondness the times gone by of the organization we've all grown to love.

This Sunday-to-Sunday meeting will provide a mix of opportunities for history buffs, military appreciators, maritime enthusiasts, and roller coaster adrenaline junkies. There are plenty of things to do for the young and the young-at-heart.

The convention will be held at the Williamsburg Lodge which was restored in 2007. Here we'll enjoy rustic accommodations with southern hospitality and impeccable service. The Lodge sports all-new Federal-style guesthouses, renovated Tazewell Hall, and a newly finished main Lodge building. John D. Rockefeller envisioned this hotel which now includes the ambience of a southern family home and art from the Abby Aldrich Rockefeller Folk Art Museum.

For a more regal stay, you might enjoy the Williamsburg Inn across the street from the Lodge. The Inn has been described as a "home away from home" for royalty, heads of state, celebrities, and guests from around the globe." It opened in 1937 as a result of Rockefeller's beneficence. The Inn is adorned with marble bathrooms and English Regency-style furnishings.

The site includes a world-class spa and 45 holes of championship golf at the Golden Horseshoe Golf Club. The Gold, Green, and Spotswood courses are Audubon sanctuaries. The courses were designed by Robert Trent Jones, Sr. and his son, Rees Jones. You'll also find indoor and outdoor pools, a fitness center, lawn bowling, and tennis.

President's Reception

The President's Reception will be held in an elegant setting on the back lawn of the Williamsburg Inn. Evenings can still be quite warm this time of year, so plan to dress coolly. Ladies, the cobblestone walkways behind the Inn will be a challenge in heels!

Theme Party

Plans are still being made, but we are considering an Anchors Away extravaganza at the Mariners' Museum in Newport News, Virginia. A short bus ride away, the Museum is one of the largest maritime history museums in the world. Containing over 60,000 square feet of gallery space, the Museum will entertain people of all ages and interests. There are interactive exhibits, a replica of the Civil War ironclad USS Monitor, and onsite restoration of archeological pieces retrieved from the sea. Immune from the weather, and offering dynamic exhibitions sure to capture the imagination of even the land lovers among us, the Mariners' Museum just may be the perfect spot for our group to fellowship. Start planning now for your nautical costumes!

Dine Around

The Dine-Around options will include area restaurants with fine cuisine and interesting atmospheres. But, for the real adventurers, we invite you to partake in an evening at a local tavern. There are four to choose from: King's Arm Tavern, which serves traditional southern fare; Shield's Tavern which serves "southern comfort foods"; Chowning's Tavern, which serves stew and sandwiches for "the ordinary sort"; and Christina Campbell's Tavern where George Washington often ate, which serves sea-



food. Take yourself back in time as you eat in 18th century style to the tunes of local balladeers. Learn what it meant to “make ends meet” or to “pull the leg” of a friend. You may be surprised by the genesis of those expressions! Ask your server how even the finest of folks were accommodated in taverns when their travels required them to stay overnight. You’ll appreciate your accommodations at the Lodge or Inn even more.

Dinner Dance

The dinner dance to conclude the meeting’s festivities will be dressy, but not black tie. We’ll toast at the cocktail party, dine in fine surroundings onsite and dance until we drop to the music of “Big Ray and the Cool Cats.”

The Program

Deb Herron is planning a knock-out program for our group.

The program in Williamsburg, “Honoring the Past, Molding the Future”, will begin with an optional field trip to the future, litigating in the future, that is. On Tuesday, there will be an optional afternoon plenary session that includes a trip to Courtroom 21, the most technologically advanced courtroom in the nation. Courtroom 21 is located at the Marshall Wythe School of Law on the Campus of William and Mary, a short walk from the Conference Center. Professor Lederer, along with others, will provide a demonstration of the technology in the courtroom and explain its uses. It is quite impressive. Immediately after the presentation, Rob Baldwin of the National Center for State Courts will address the group and explain what the National Center for State Courts can do for you, your firm, and your practice. This promises to be a unique experience.

Section meetings will begin on Wednesday and the Plenary Session will officially open with a two hour interactive session on “The Lost Colony of Professionalism.” Dr. Terry Price, a Professor at the Jepson School of Leadership, University of Richmond, will be an active participant in the session, focusing on Ethics and Leadership. Thursday’s session will examine creativity in the Courtroom. This interactive session, “Creativity for Your Next Trial – A Jeffersonian Declaration,” will feature a lesson in creativity and the use of it throughout a trial. Keeping with the creativity theme, a panel will examine the creativity of jurors in using social media during trials, a not so welcome act, and how courts are handling the problems.

Using the past to mold the future, Friday’s Plenary Session will examine lessons learned from the oil spill; from handling the media, to the impact on the gulf. The program will close on Saturday with the keynote speaker, a thought provoking speaker that should not be missed. More details to follow.

Things to Do in and Around Williamsburg

■ **Bring your sunscreen and swim suits.** The family will love spending a day at nearby Busch Water Country.

■ **Busch Gardens with a European flair** is another “must do” especially for families with kids.

■ **Visit Historic Jamestown** where you’ll find a museum, a Native American village and replicas of the ships that brought the original English over the Atlantic. Travel in those days was not nearly so romantic as our modern movies depict.

■ **Historic Yorktown** gives us the opportunity to explore the Yorktown Victory Center containing exhibits and a reenactment area with demonstrations of how soldiers loaded muskets and how the wounded were treated (yikes! – makes you glad we have the benefits of modern medicine). Then, make your way to the Yorktown Battlefield and grab an ice cream cone at Riverwalk Landing.

■ **Local plantations** provide the flavor of the times, including the site of the first official Thanksgiving.

■ **Tootle around Colonial Williamsburg** either on your own or as part of one of our docent-led tours. You can stop and visit with characters in Colonial garb going about their daily business. You may be surprised by a horse ride down the street by Benedict Arnold. You never know!



■ *Bring your golf clubs or your tennis rackets* as we'll have tournaments for both.

■ *Have afternoon tea* with Patrick Henry's sister or maybe even Ben Franklin. He was quite the ladies' man, you know!

■ *You may be served with a summons* to report for jury duty in one of the weekly Witch Trials.

■ You'll need to stay on your toes as we'll have unexpected visits by various colonial characters, founding fathers, fife and drum corps, and the like.

Things to Remember

This will be one of our warmer summer venues. So, dress in cool fabrics, bring a hat and sunglasses, and slather on lots of sunscreen.

Make your room reservations early. You should consider arriving on Saturday, July 23rd, to take full advantage of a free family day on Sunday.

Williamsburg is within driving distance of many East coast towns, so driving may be the way to go!

We look forward to Celebrating our Heritage with you and yours in Williamsburg next summer.

—Deb and John Kuchler
Williamsburg Convention Chairs



WELCOME NEW MEMBERS

CORPORATE COUNSEL

William C. Burdine

Quanta Services, Inc., Houston, T
Sponsors: Heidi G. Goebel; W. Michael Scott

Paul C. Garrison

Infinity Property & Casualty Company, Birmingham, AL
Sponsors: John G. Farnan; Reid S. Manley

Russel D. Hiles

Hiles/Borgeson and ReAlign Group, LLC, Glensdale, CA
Sponsors: Dean B. Herman; Bryan F. Murphy

Jean-Louis Lemoine

Delmar Systems, Broussard, LA
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George J. Bequette, Jr.

Bequette & Billingsley, P.A., Little Rock, AR
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Plunkett Cooney, PC, Bloomfield Hills, MI
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the hotel is an oasis of 39 acres, located in Phoenix, with beautiful gardens, swimming pools, and architecture influenced by Frank Lloyd Wright. The Biltmore, part of the Waldorf Astoria Collection, is centrally located within minutes of museums, major sporting complexes, recreational, outdoor activities, and other cultural attractions. Phoenix Sky Harbor International Airport is six miles south of the resort and offers nonstop flights to more than 100 domestic and international locations.



Mark your calendar and plan to attend, Saturday, March 3 – Saturday, March 12, 2012.

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FUTURE MEETINGS

WINTER 2011

Saturday, February 26 – Saturday, March 5, 2011

Hyatt Grand Champions Resort and Spa
Indian Wells, California

ANNUAL 2011

Sunday, July 24 – Sunday, July 31, 2011

Colonial Williamsburg Resort
Williamsburg, Virginia

WINTER 2012

Saturday, March 3 – Saturday, March 10, 2012

Waldorf Astoria Arizona Biltmore
Phoenix, Arizona

ANNUAL 2012

Saturday, July 28 – Saturday, August 4, 2012

Fairmont Chateau Whistler
Whistler, British Columbia

WINTER 2013

Saturday, March 2 – Saturday, March 9, 2013

Westin La Cantera Resort
San Antonio, Texas

ANNUAL 2013

Sunday, July 28 – Sunday, August 4, 2013

The Broadmoor
Colorado Springs, Colorado

WINTER 2014

Saturday, March 1 – Saturday, March 8, 2014

Marriott Marco Island Beach Resort, Golf Club & Spa
Marco Island, Florida

ANNUAL 2014

Saturday, July 26 – Saturday, August 2, 2014

Silverado Resort
Napa, California

2011-2014

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Send your comments regarding the Flyer to:

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