

the **Association** *press*



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PRESIDENT'S MESSAGE

JOHN R. CLIFFORD (CA)



This is an exciting time to take over as President of the Association of Defense Trial Attorneys as we embark on new changes while staying true to our roots. These changes will ensure that the ADTA remains a vibrant organization for defense trial attorneys and allow us to continue in our efforts to provide value to our members.

During our annual meeting in San Diego, it was announced that we retained the services of Peggy Schultz to serve as the first ever Executive Director of the ADTA. Peggy was kind enough to attend the first few days of our meeting and was able to meet with a number of our members. There was strong consensus that Peggy will be a wonderful attribute to our organization. Peggy has an impressive background in business and marketing and over the past several years has been serving as Executive Director and consultant for State and Regional defense trial organizations. Peggy will begin to transition in the Fall of 2007 and will take over the reins as Executive Director beginning January 1, 2008. At that time, Lynnette Baldwin will step down as Assistant Secretary, however Lynnette has agreed to stay on as an Ambassador for the ADTA and will continue to attend our Annual Meetings.

We also had a shake up in the Treasurer's position as Bob Tait was elected Vice President. To fill the void left by Bob, Matt Bailey was elected as our new Treasurer. In accepting the position as Treasurer, Matt turned the reins of the Association Press over to one of our new Executive Council members, Steve Heine, who will serve as Editor beginning with this edition of the Association Press. Please be certain to thank all of these individuals for their volunteer efforts on behalf of our organization.

As part of our keeping in touch with our roots, my good friend and Past President Steve Crislip, not content to simply fade away after his 15 plus years of service to our organization, has agreed to volunteer his time and undertake a history project. It is our goal to showcase a history of the

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ADTA at next year's Annual Meeting in Charleston, South Carolina. I would urge our long term members to contact Steve and provide him with your memories of the ADTA.

The sum and substance of all these events is that the ADTA is a truly unique and special organization because of its membership and our Annual Meeting. While a good percentage of our members attend the Annual Meeting, there is still a number of silent members who we need to hear from and who need to attend the Annual Meeting. You ask why! A full and complete response to that question would take up more pages than I have been allotted by our new editor. The short answer is that our Annual Meetings have allowed Pam and I to forge friendships that will last a lifetime, while at the same time enhancing business for myself and my firm. Attendance at the Annual Meeting is also a wonderful opportunity to show your interest in the organization and to become involved which you will find rewarding both personally and professionally.

On the membership front, as you all know, membership is the lifeblood of our organization. Glenn Morgan has been doing a stellar job in working with the State and Regional Chairs to replace those members who have retired from the ADTA. Anyone who has been involved in membership activities within the ADTA or your state and local organizations knows this is a time consuming and thankless job and I would ask all of you to assist Glenn in his efforts. We also need to look at diversifying our membership so that we truly represent the defense trial community. Look within your own firms and select an associate member who meets the criteria for becoming an ADTA member. There is a graying of the defense bar and the ADTA can help prepare the next generation of defense trial attorneys. Also, look throughout your state and local regions to determine if there is a void in a particular location. If you know a top-notch defense attorney in that region who you believe would be an asset to the ADTA, forward them a membership application or pass it on to your state or regional chair.

Pam and I look forward to representing the ADTA this year with our sister organizations and look forward to traveling with our good friends Gail and Kevin Kelly. We are also looking forward to next Spring's Annual Meeting being held in the Old South in Charleston, South Carolina. Our hosts Molly Hood Craig and her husband Steven and our Past President Bobby Hood and his wife Bernie have planned a meeting you will not want to miss as it will be unparalleled in its elegance and the wonderful social events being planned. It will be an opportunity to rekindle old friendships and forge new friendships. You can also expect an excellent legal education program. The Continuing Legal Education Committee, consisting of Dan Balmert, Bill Staples and Morris Chochla (with an assist from new Executive Council Member Molly Craig) and chaired by Kevin Kelly is putting together a program that will have a variety of interesting and current topics with a concentration on issues for trial attorneys presenting their case in a modern courtroom. Kevin's committee is focused on continuing the trend of our CLE committees in having lively speakers who present programs for practicing trial attorneys.

In closing, I feel privileged to represent this organization in this upcoming year and commit to further the interests of the defense trial attorney. If you are aware of issues in your practice or if there is anything you believe the Executive Council or the Officers of the ADTA can do to assist you, please contact us. We will be holding the Fall Executive Council Meeting on November 9, 2007, and would appreciate your input which we will include in our agenda. I look forward to seeing you in Charleston in the Spring.



WHAT IS NEW IN MY STATE

PAT CULLEN (MD)

MICHIGAN

Dennis M. Day is a senior shareholder in Plunkett & Cooney's Complex Litigation Practice Group and Business Advisory Group in Detroit. He has been with the firm since 1971. In response to the question, "What is new in Michigan," Dennis replied "lots". He reported that due to significant changes in tort law, major litigation, including the fields of construction, medical malpractice and products liability and litigation generally described as personal injury non-automotive filings have decreased approximately 31% in the last six full years. In essence, the legal climate for the defense has become very favorable and on that account trial lawyers on both sides of the "v." are losing work.

Dennis attributes the decline in litigation to a number of factors:

1. The applicability of caps on non-economic damages in products and medical malpractice.
2. The ability to litigate a percentage of fault against non-party defendants to reduce the defendant's exposure.
3. The preclusion of non-economic damages when a plaintiff is determined to be more than 50% at fault.
4. A heightened standard of care for medical malpractice.
5. Open and obvious on slip and falls becoming a matter of law for the court to decide.
6. A no-fault automobile tort system that includes a threshold that is also a matter of law for the court to decide.

Dennis' plate is really full. Last year between April and September, he spent almost 70 days in the trial mode, including an overhead door case and an ultra-lite aircraft case, both of which involved severely injured plaintiffs and both of which resulted in defense verdicts.

In his spare time, Dennis participates in his law firm's diversity outreach. He serves on various committees for minority business development, the Midnight Golf Program with over 95 students admitted to college and 58 more attending this coming September and on the Detroit Regional Economic Partnership Board. He has been actively involved in the International Visitor's Council that brings international visitors to Detroit for training in business development. As a follow-up to that participation, Dennis traveled a few years ago to Russia to meet with the Russian entrepreneurial students to see how they have placed their Detroit learned lessons into practice.

INDIANA

Stephen R. Pennell of Lafayette, Indiana joined the firm of Stuart and Branigin upon graduation from Indiana University Law School. He has been with the firm for 31 years. During that time, he has handled more than his share of heavy litigation to include a pre-cap Maryland case where a young boy sat on the drain in a wading pool. The force of the drain was so strong that the young boys internal organs were permanently damaged. Steve's client was brought into the case as a third-party defendant four months before trial. The defense was confronted by the affidavits of two experts alleging that the pump in question, designed by Steve's client, was defectively designed. Within three months Steve not only got his hands around the facts, but also was able to present to the court and successfully argue a motion for summary judgment. The enormity of his success was made more obvious when the case later settled for \$24 million. Steve recalls that he retained local counsel in Maryland from the ADTA membership Directory and recommends that as good practice.

Steve reports that the Indiana Supreme Court recently ruled on the effect of presumptions in product liability cases and concluded that the defense is entitled to an instruction on a statutory presumption that a vehicle manufactured in accordance with federal regulations is presumed to be non-defective. Steve is a regular attendee at the annual ADTA meeting. He and his wife, Diana, enjoy reading and travel. Their son Jim and his wife live nearby in Chicago. Their daughter Lauren and her husband live in Tampa. Both Jim's family and Lauren's family include a young son to the joy of proud grandparents Stephen and Diana.



NEW MEMBERS

- Dennis J. Wall – Winter Springs, FL
- Mark B. Connely – San Luis Obispo, CA
- Troy A. Bozarth - Edwardsville, IL
- Kurt R. Weitendorf - Akron, OH
- J. Charles Foster - Fredericton, NB
- L. Gino Marchetti, Jr - Nashville, TN
- James O. Craven - New Haven, CT
- Paul S. Penticuff – Kansas City, MO
- Michael J. Coyle – Dubuque, IA
- Matthew S. Hendricks – St. Louis, MO
- Wayne H. Marie – Chico, CA
- Gray E. Haslerud – Chico, CA



BOB TAIT ELECTED VICE PRESIDENT OF ADTA

ROBERT E. TAIT (OH)



Bob has been an ADTA member since 1986. He served on the Executive Council from 1991 until 1994 and, most recently, as Treasurer from 2002 until 2007.

Bob and Donna have three children: Heather (whom many of you know since she "pinch hit" for Donna at two Executive Council meetings and one regular meeting), an elementary school teacher in

Chicago; Jenny, who works in Chicago in Human Resources and Rob, a high school teacher in Tampa.

Bob has permitted Gordy Broom to beat him at golf on a fairly regular basis. Bob enjoys musical theatre. You might have heard him in the hospitality suite.

In 1988, Bob argued a case before the United States Supreme Court, his most memorable achievement as a lawyer. The case, *Goodyear Atomic Corp. v. Miller*, arose from a workers' compensation claim at a private run, federally controlled uranium enrichment facility. The federal government contended that state safety regulations did not apply to the plant, so the scope of the supremacy clause was central to the case. Bob says that his half hour in front of the Supreme Court was fascinating with Justice Scalia asking particularly good questions, Justice Thurgood Marshall, in ill health at the time, nodding off during the argument and Justice O'Connor telling Bob at one point that she, not he, would decide what the issues were in the case.



ABOUT OUR MEMBERS

Karen Kendall (IL) is the 2007-2008 President of the Peoria County Bar Association.

Jeff Hebrank (IL) has become the President of the Illinois Association of Defense Trial Counsel (IDC), effective July, 2007.

Bill Powell (WV) has been nominated by the President to be a Federal District Judge for the Northern District of West Virginia.

The Missouri Organization of Defense Lawyers (MODL) elected **Karl F. Blanchard, Jr.** to serve as the President during their 22nd Annual Meeting at the Chateau on the Lake Resort in Branson.

Jennifer Lee Parish (VA) was elected as Vice Chair of the Litigation Section Board of Governors of the Virginia State Bar.



NATIONAL ISSUES REPORT

WILLIAM J. POWELL (WV)

This has been a very distracting spring, but I wanted to make sure that the National Issues Committee submitted something worthwhile for our hardworking membership. As we discussed at our annual meeting, I hope this Committee, if it does nothing else, highlights a case or two that you should take a moment to read out of that large stack of reading materials that we all have on or nearby our desk.

Most of us are in “notice pleading” states, which don’t require much to be included in the Complaint. However, the United States Supreme Court has reminded everyone that the Complaint does need to meet certain standards and that the allegations must have “heft”. The term “heft” was actually used by the Supreme Court. My research suggests that the Supreme Court has only used that word in an opinion two other times in its history. For that reason alone, you should read the opinion.

In *Bell Atlantic Corporation v. Twombly*, 2007 W.L. 1461066 (May 21, 2007), the Supreme Court in a 7-to-2 opinion remind drafters of Complaints that Rule of Civil Procedure 8(a)(2) requires Complaints to give the Defendant fair notice of the claim and that the obligation requires more than labels and conclusions. “A formulaic recitation of a cause of action’s elements will not do.” In a case arising from an anti-trust claim, the Court ruled: “The need at the pleading stage for allegations plausibly suggesting (not merely consistent with) agreement reflects Rule 8(a) (2)’s threshold requirement that the “plain statement” possess enough heft to sho[w] that the pleader is entitled to relief.”

As we are all occasionally faced with the Complaint which consists of conclusions and horn book statements, we now have a very recent United States Supreme Court case to rely upon when filing our Rule 12 motion to dismiss

In the Fourth Circuit opinion of *Elm Grove Coal Co. v. Director, O.W.C.P.*, 480 F3d 278 (4th Cir. 2007), the Court ruled upon the discoverability of information provided to an expert by the hiring lawyer. Though the case arose from a black lung claim, it found that the work product doctrine did not protect from disclosure the draft reports and communications between the miner’s lawyers and his physician expert. The Fourth Circuit has now joined several other jurisdictions in allowing draft information to be produced in discovery. The Court ruled that, because cross examination is vitally important in the truth finding process, information relied upon by experts and would question trustworthiness or reliability is fair game. This section of the opinion should be read by all of us who have to deal with experts. The ruling is another shot across the bow of our preparation, which occasionally gets a little “loose” during our interaction with retained experts. I also suggest passing on this information to legal assistants and secretaries who regularly interact with our respective experts on our behalf.

Litigate well my fellow ADTA members.



A WORD FROM LOU

LOU SCOFIELD (TX)

If we knew half of what we think we know we’d be brilliant. Unfortunately we don’t.

Alas dear victims, er, I mean readers, I once again will be abusing this forum called “A Word From Lou” to impose upon you my personal opinion about something (hint: see introductory sentence above). And, as usual, it will take me awhile to get to the point. So just bear with me. Let’s start by considering the Climate.

I am in favor of the Climate, whatever it is. Hotter, colder, whatever it decides to be is fine with me. If asked to vote, I’d vote for global-warming. Again, not because I’m *against* global-cooling or global-staying-the-same-ing, but because I’m *for* warming. If it gets warm enough and an AI Gore magnitude sea level rise occurs, my home, which is 23 feet above current sea levels, will be desirable beach-front property.

Unfortunately, I have no confidence in the predicted consequences of global-warming (whether or not it is caused, or contributed to, by man), because everyone on every side of the global-warming debate doesn’t know what they are talking about. They all made it up. Not a one could hold up under a light *Daubert* challenge.

Take the former Vice President for example. He suggests in an acclaimed, Academy Award winning film, that the earth is warming, true...and that people are a big cause of it, true or not, he (and others) made this part up. The former Vice President doesn’t know anything more about global-warming than you do. Think about it. If you were going to hire someone to survey available studies, gather the data, and give you a definitive opinion, based on current knowledge, on whether people are causing the warming of the earth, would you hire a law school dropout with an undergraduate degree in government?

But then again, a lot of folks end up giving right answers for the wrong reasons...at least half my jury verdicts, I suspect. So Vice President Gore may be right (though he has no reason to believe that he is). Indeed, it seems the folks who are now affectionately called “Global-Warming Deniers,” are just as short of facts, if not as short of credentials, as the former Vice President.

The reality is that the earth is warming and has been since before we were children. In our lifetimes we have watched it. As a geologist (B.S. Geology/Mineralogy: University of Michigan, ’74) I’ve studied it and its effects on the retreating glaciers, erosion, and depositional environments. I watch the reports like you do: Ice cores show lots of warm and cold spells with warming preceding increased atmospheric carbon dioxide. Not the other way around. Computer models show carbon dioxide and especially methane are greenhouse gasses, sure to trap heat. Is one the cause and one the effect or are both causes? We have no data to tell us which answer to choose. Plus powerful data shows

rainfall trumps it all, and we have no idea how much it rains on earth in any given year. Even close study of the subject, using current data, refuses to show whether we play a part in it and, if at all, how much or how little.

If I felt at liberty to speculate on the causes of our earthly climate cycles, like everyone else apparently feels at liberty to do, I'd come up with something a lot better than auto emissions: Like the time when the hairy mastodons developed opposable thumbs and began wholesale planet-wide campfires with marshmallow roasts. Not only did the smoke cause the planet to warm and become uncomfortable, hot marshmallow stuck to mastodon fur, sticking their legs to their sides, making them easy prey for man...leading to mastodon extinction. Had the mastodons heeded the warning signs of Global Warming they might still be around today. And even this historical fact would have its "deniers." They would claim as "proof" that this could not have occurred, the fact that early man's intellect had only developed to a level comparable to today's journalists, obviously too low to have invented tools for hunting. These deniers would have a point, but the overwhelming scientific consensus would be against them.

...Forgive my sarcasm. But the planet has warmed and cooled countless times before, and we know no more about the cause of these cycles than about the cause of the current cycle. Frankly I like the mastodon/marshmallow theory. But I'm open to other ideas. The Climate warriors, however, are not open to other ideas, and this makes for an entertaining fight.

Isn't it fun watching the fight?

I love watching this fight. It's like an argument in a bar where neither drunk can express himself correctly, and neither will be convinced by the other, even if one of them does have the facts. It also reminds me of an exhibit that was (and might still be) at the Field Museum in Chicago. The Field Museum is a science and educational museum containing among its exhibits paleontology displays, dinosaur bones, and cool information about the time of dinosaurs. Of late a debate has arisen among folks who study this stuff about whether dinosaurs were warm blooded crea-

tures or cold blooded reptiles. So the museum has a place where visitors can vote: "warm blooded" or "cold blooded." When I voted the cold blooded total was beating the warm blooded vote, two to one. Of course, such a poll is useless: The voters are clueless of the truth; the truth is not known, and may not be currently knowable; and if "cold blooded" wins the vote, it will have no effect on whether dinosaurs were, in fact, cold blooded. Simply put, the voting poll on the topic is useless...but is it? After all, it gives us the illusion of knowledge.

The drunk in the bar can display this poll result as support for his claim that dinosaurs were cold blooded. Why not? Sober newscasters cite poll results from public samplings every day, where those questioned are just as ignorant as the museum voters. This type of fake information is everywhere. In the 1970's nutritionists almost killed the breakfast cereal industry claiming cereals were just empty calories. Today's data says otherwise. Enhanced breasts were mercilessly attacked by the "junk science" attacking silicone. The "Alar" apple scare, just about anything Freud ever said or wrote about the human mind, any economist's prediction, "stress" causing ulcers, she wanted me to kiss her... (wrong, wrong, wrong, wrong, uh maybe)...are just a few examples of the illusion of knowledge, where folks earnestly believed something because they heard it in the public square and a consensus at least temporarily formed around a given "fact," only later to be disproved. [O.k. So the kissing example doesn't work, but the rest do.]

Unfortunately, pressing your point, based on consensus, and not considered judgment, sometimes does harm. I'm thinking here of the 94 "intelligent" Duke Faculty members who signed the petition that presumed the guilt of the Duke Lacrosse players.

Of course there is such a thing as being right, and knowing the truth. Why just the other day Galileo was telling me that the whole time he was prostrating himself before the Catholic Church and denying his theory of the solar system, he had his fingers crossed. He said, "Truth, especially scientific truth, is pesky. It will eventually come out."

So it will be with determining the cause of Global Warming. Some day we will know the pesky truth (It's probably caused by something we haven't thought of yet. Maybe the culprit is CO2 from carbonated beverages, like beer and soft drinks, in which case we will just have to get used to the earth being hotter). In the meantime, fortunately, the Global Warming debate will continue to fill slow news days. Our ignorance and certainty in it will compel us to flail about, spend billions on remedies that won't work, divert resources from truly life saving human endeavors, and inspire our inventive spirit to to come up with stuff that will let us live quite comfortably with climate change, regardless of what causes it.

It seems to me that the only way we'll miss enjoying this unfolding ridiculous argument is if we recognize, then admit, that much of what we "know" is the illusion of knowledge, mere constructs to avoid uncertainty. If we admit we don't know even half of what we think we do, our pride may diminish and we may stop yelling at each other. Now what's the fun in that?



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A FIRST TIME ADTA EXPERIENCE

JIMMY E. WHITE (AK)

In April, I had the opportunity to attend ADTA's Annual Meeting in San Diego with my wife, Pamela, and we were both overwhelmed by the kindness, collegiality, and outright warmth of the other attendees. We had the opportunity to meet numerous families from around the country, all of whom seemed genuinely interested in developing relationships. Of course the legal education was terrific and the opportunity to network with a collection of professionals with unparalleled skills and experience was great. But, it is the interest of the members *in the members* that truly sets this organization apart. We can't wait to see everyone in Charleston next year.



Dan Formeller (IL), Ann and Doug Johnson (WI)



Holly Broom (IL), Donna Mason (TX) and Donna Tait (OH)



Molly Hood Craig (SC), Bob Lynch (CA) and Kevin Kelly (NY)



Bruce Walker (IA), Cathy Marek (IL) and Dedi Walker (IA)



Kristy Hall (CA), Eileen Ryan (PA), Bill and Francene Luckett (TN)



Buzzy and Tammy Knight (AL)



*Steven and Jennifer Schlitz (WI), Anna and Rob Tyner (MS)
and Bridget Brine and J. D. Feriancek (MN)*



Bill Staples (CA) and Morris Chochla (ON)



MEMBERSHIP REPORT

GLENN S. MORGAN (VT)



Troy and Amy Bozarth (IL) and Dyan and Paul Ebert (MN)



Ed Birk (FL), Steve Crislip (WV), Jennifer Parrish (VA)



Robert and Adrienne Baumgartner (LA)



Donna Lamontagne and Tom Patriarca (RI)



Bob Babcock (MO) and Willie Moore (HI)



John Clifford (CA), Bob Tait (OH) and Kevin Kelly (NY)



Left to right: Andrew Zizik (MA); John and Lynne Brown (PA); Hayden Twomey (IL) and Logan Asmuth (CA); Emily, Kelly and Phillip Johnson (MN); Therese and Scott Blinks (WA); Back row: Tammy Knight and Buzzy Riis (AL) – Getting their Surfing Lessons

As I expected, San Diego was a great venue for our annual meeting. Our new President and First Lady did a wonderful job for our organization. Now it is your turn to do something for ADTA. We have lost several members to retirement, resignation or unpaid dues as of April 1, 2007. I have contacted the state and regional chairs requesting their assistance to fill those vacancies. However, the state and regional chairs and myself cannot alone carry the burden of maintaining membership numbers in the ADTA. I feel membership in the ADTA carries with it a responsibility of each and every member to seek out and approach strong ADTA prospective members. Generally, the membership numbers rebound between the annual and fall meetings. Unfortunately, the applications crossing my desk since May 1 do not bode well for our organization.

Please consider this article to be a personal request from me to each of you to take 15 minutes and think about what ADTA means to you and how you can share that experience with someone in your own firm or legal community. There are 1440 minutes in a day and we are all busy, but this is not too much to ask of you. Many of you have proposed lawyers for ADTA membership or told me you have someone in mind, but for one reason or another, applications do not materialize. Follow up is difficult for all of us because of our busy practices. Nevertheless, we must reach out to individuals who have expressed interest in ADTA and close the deal. Our new Executive Director, Peggy Schultz, brings with her a wealth of experience on membership issues and I'm sure she will be a great help to all when she comes on board. In the meantime, please take that 15 minutes and be a closer. Even though you may not practice in a state where you know a good candidate for ADTA, please get that information to your State Chair, Regional Chair or myself. If this sounds like "win one for the Gipper," you got the message.



ADTA DUTCH TREAT DINNER IN WASHINGTON, D.C.

Don't miss this wonderful opportunity to gather with your fellow members of the ADTA. The annual ADTA Dutch Treat Dinner is held in conjunction with the DRI meeting and has continued to increase in popularity. Over 60 members and guests attended last year's dinner in San Francisco. This year's dinner will be held on October 10, 2007 in Washington, D.C.



Terri Mitchell (CA), Pam Clifford (CA), Elizabeth Lederer (IA) and Carolyn Walker (AL)



PEGGY SCHULTZ BECOMES EXECUTIVE DIRECTOR OF ADTA



In October 2007, Peggy Schultz will begin a three month part-time tenure as Executive Director of ADTA, becoming the full-time Executive Director in January of 2008.

Peggy and her husband, David, reside in Tampa, FL and Charleston, WV. This may sound complicated, and it is. They are from West Virginia and do not plan to sell their home in WV while David's business currently keeps him

in Tampa. So, she travels back and forth, making life interesting. Technology definitely has its benefits. She and David have been married for 36 years and have two children, David, Jr. and Gretchen, both graduates of the University of Kentucky and living in Florida. David, Sr. is an Auburn graduate. So with living in Florida, West Virginia and graduates of Kentucky and Auburn, you can imagine the sports discussions/disagreements in their household!

She is the owner of Peggy Schultz and Associates, LLC, which was developed to assist businesses without internal marketing capabilities in marketing direction, implementation and coordination, advertising, communications, and event planning. Peggy's background is very diverse with particular strength in project coordination, association management, computer skills and website development. She was previously the Vice President and Marketing Director for City Holding Company, a WV financial institution with seven companies and 60 banks. After nine years of working and initializing many new products, departments, and training programs, she decided to open her own company.

It was through the event planning aspect of her company that she became acquainted with and ultimately became the Executive Director of the WV Convention and Visitors Bureaus. Today, she is the Executive Director of the Defense Trial Counsel of West Virginia and uses her marketing skills with various law firms and businesses whenever a client of interest knocks on her door. She was the Campaign Manager for the first female to be elected as WV's Secretary of State.

When Peggy isn't working or traveling between Florida and West Virginia, she thoroughly enjoys her flower gardens. Keeping them going in both states has become a challenge because weeds seem to grow in both states much better than plants. She enjoys walking, bike riding and anything else that requires being outdoors.



CHARLESTON 2008 – APRIL 9 - 13

MOLLY HOOD CRAIG (SC)

Like many things in Charleston, our hospitality room at the Mills House Hotel for the 2008 Annual Meeting has special historical significance. Aside from its well-reported popularity during the first ADTA meeting in Charleston in the early eighties, the room was used by General Robert E. Lee as his Field House Quarters when he visited Charleston to review Southern defenses during the U.S. Civil War. However, this was not his first visit to the Mills House. Interestingly, General Lee and his staff were staying at the Mills House Hotel when the great fire of 1861 nearly destroyed the City. General Lee and his men helped local firemen and citizens save the Mills House by putting wet blankets around the casings of windows and other places where wood was exposed. The Mills House Hotel was saved from this terrible fire and is now ready for full occupancy of ADTA members the weekend of April 9, 2008.

Steven and I are very excited about the 2008 Annual Meeting in Charleston, SC. Through the hard work of Peter McLean and John Clifford, a contract is in place with the Mills House Hotel located in the historic district of downtown Charleston. The Mills House has undergone substantial renovations and will continue to be updated throughout this year and 2007. The Mills House is located within walking distance of King Street, the well known shopping district, and convenient for strolls around downtown Charleston to enjoy historic homes and gardens.

We plan to begin the week with the New Member's Reception on Wednesday, April 9, 2008 in one of the renovated rooms in the Mills House. The President's Reception is scheduled to take place along the poolside terrace located on the second floor of the Mills House. The hospitality suite is also located on the second floor of the hotel in the same vicinity as the entrance to the poolside terrace. The hospitality suite opens to a porch overlooking Meeting Street.

On Thursday, April 10, 2008, we are working on a speaker for the spouse breakfast who will provide the history of Charleston to introduce our weekend events. We have arranged for a tour of Charleston's historic homes and gardens with Retta Mendelsohn as an optional afternoon activity. Ms. Mendelsohn is a Charlestonian who has been in the touring business for over twenty years. Other optional activities include a golf tournament at Yeaman's Hall Country Club which is located approximately twenty minutes from the hotel. The Country Club of Charleston is a ten minute drive from downtown Charleston. Our evening plans include cocktails and dinner at the William Aiken House located approximately one mile from the hotel. The William Aiken House was renovated a number of years ago and is a beautifully restored historic property. It is often the venue for wedding receptions. The house itself is magnificent and is a wonderful evening activity to just tour the house. We are thinking of having cocktails on the veranda on the second porch with dinner being served downstairs.

We have also tentatively reserved a band who can set up in the garden with a dance floor. This band is known for playing "feel good music" and lends itself to dancing.

On Friday, we have a tour of Middleton Plantation and Gardens tentatively planned to begin at 10:00 a.m. and conclude at 1:00 p.m. Middleton Gardens is a plantation located approximately 25 minutes from downtown Charleston. Following the tour at Middleton Place, we have a lunch and oyster roast scheduled at Drayton Hall Plantation. Drayton Hall is not far from Middleton Place so it will be quite easy for folks on the morning tour to join those who attended the CLE portion of the meeting that morning. We can also arrange available tennis courts at the Country Club of Charleston for a tennis tournament. For our evening entertainment, we have arranged to have a cocktail party at the Nathaniel Russell House which is located on Meeting Street approximately two blocks from the Mills House Hotel. The Nathaniel Russell House was built in 1808 and is one of the premier historic properties in Charleston. We hope to have short entertainment from a local group of gospel singers. These ladies wear the traditional clothing from the Gullah tradition and sing old songs inherited from the plantation days. Afterwards, we will provide a list of local restaurants within walking distance of the Nathaniel Russell. We can also arrange to have Rickshaws, for those who would like a pleasant ride behind a bicycle.

On Saturday, we are working on a dynamic speaker for our breakfast meeting. Following the breakfast for the members and spouses, attendees will have the option to participate in a Charleston Walking Tour or visit the U.S.S. Yorktown by bus. This aircraft carrier is located across the Cooper River Bridge and is approximately fifteen minutes from downtown Charleston. Our evening activity will begin with a cocktail reception downstairs of Hibernian Hall followed by dinner and dancing on the second floor of this



building. Hibernian is a lovely facility located next door to the Mills House. Actually, Steven and I had our wedding reception at Hibernian Hall.

The Mills House will host the farewell brunch on Sunday afternoon.

Steven and I look forward to extending our own style of southern hospitality to what we anticipate will be a fun-filled, action-packed weekend. We will tour some of the most exclusive historic homes and gardens in Charleston, dine at the elegantly restored William Aiken House, and enjoy the historic ambience of Middleton Plantation and Gardens, as well as Drayton Hall Plantation. Perhaps most importantly, some of you will return home having learned to shuck oysters. Charleston offers an array of other extra-curricular activities including golf, tennis, and tours of the U.S.S. Yorktown and Fort Sumter, just to name a few. Of course, leaving King Street and the shopping district may prove difficult for some. Steven and I, as well as my parents, Bernie and Bobby Hood, look forward to next April as we are eager to share our city with you.



ASSOCIATION OF DEFENSE TRIAL ATTORNEYS ELECT EXECUTIVE OFFICERS FOR 2007-2008

At the ADTA's 66th Annual Meeting at the Hilton La Jolla Torrey Pines in San Diego, California, elections were held, and the ADTA is pleased to announce its new Executive Officers for 2007-2008:

PRESIDENT

John R. Clifford, San Diego, California

PRESIDENT-ELECT

Kevin J. Kelly, New York, New York

VICE PRESIDENT

Robert E. Tait, Columbus, Ohio

IMMEDIATE PAST PRESIDENT

Stephen R. Crislip, Charleston, West Virginia

TREASURER

Matthew W. Bailey, Baton Rouge, Louisiana

SECRETARY

George M. Walker, Mobile, Alabama

ELECTED AS MEMBERS OF THE EXECUTIVE COUNCIL FOR A THREE YEAR TERM WERE:

*Kevin F. Amatuzio, Denver, Colorado
Molly Hood Craig, Charleston, South Carolina
Stephen J. Heine, Peoria, Illinois*



NEW EXECUTIVE COUNCIL MEMBERS

KEVIN F. AMATUZIO (CO)



Kevin Amatzio is a partner in the law firm of Montgomery, Kolodny, Amatzio & Dusbabek. The firm has offices in Denver and Fort Collins, Colorado and in Cheyenne, Wyoming. Kevin is in the Denver office. He graduated from the University of Denver College of Law in 1983.

Kevin now does almost exclusively insurance coverage, bad faith defense and inter-

insurance carrier disputes.

Kevin and Alice, his trophy wife of 23 years, have two girls in college: Sara, a senior at Gonzaga, a member of the crew team, and Krista, a sophomore at the University of Wyoming, majoring in sociology and criminal justice.

Due to his advancing years, Kevin reports that he was compelled to buy an old Mercedes convertible this year (his 50th).

Kevin claims to be a bad golfer, a marginal tennis player and old hockey player, and says that his best jobs were as cook and a hockey referee, but plans to stay with lawyering for the time being.

Kevin and Alice live in a house that he and his father rebuilt from a 680 sq. ft. shell in the 1970's that has endured three additions over the years.

MOLLY HOOD CRAIG (SC)



Molly Hood Craig is a partner in the Hood Law Firm in Charleston, South Carolina. She graduated from the University of the South in 1991 and from the University of South Carolina School of Law in 1994. Molly's areas of practice include health care litigation, nursing home defense, medical device/pharmaceutical litigation, products liability litigation and employment litigation.

Molly and her husband, Steven, have three children: Steven, age 11, Macy, age 8, and Michael, age 3. Steven, after practicing for 15 years as a tax lawyer, recently accepted a position as the chief financial officer of McAlister Development.

Molly's hobbies involve "anything on the water," but her real hobby is teaching aerobics, spinning, walking and reading. She reports that she squeezes these things into her schedule around caring for the three children while husband Steven plays golf.

Molly's parents, Bernie and Bobby Hood, are taking Molly, Steven, 8 grandchildren and others on a Disney Cruise this summer to celebrate their 40th wedding anniversary.

Molly is coordinating the 2008 Annual Meeting in Charleston.

STEPHEN J. HEINE (IL)



Steve Heine is a partner in the Peoria, Illinois office of Heyl, Royster, Voelker & Allen. Steve graduated from the Southern Illinois University School of Law in 1981.

Steve has served as the President the Illinois Association of Defense Trial Council (IDC).

Steve's wife, Karen Kendall, is an ADTA member who specializes in appellate practice. Steve and Karen have one daughter,

Carrie, and three grandsons.

Steve's practice focuses on several areas: the representation of insurers in first party property, coverage and bad faith claims; railroad litigation defense; and other civil litigation for the defense.

Steve and Karen spend as much time as possible, but not as much time as they would like, at a cabin in Lake County, California, just north of Napa Valley. In Peoria, they have three dogs (one insane, one fat and one blind), one cat (aged) and two horses. Steve spends many hours training for and racing his bicycle, but not as many as Karen spends training for and doing triathlons and half marathons. Steve reports that only lack of talent and ability is keeping him from securing a contract with a major professional bicycle racing team with a spot in the Tour de France.



DRI INSURANCE ROUND TABLE

KEVIN J. KELLY (NY)

I attended the 12th annual DRI Insurance Roundtable as the ADTA representative. The chairperson of the meeting was Mike Aylward, who did, as you expect, a great job. The theme of the roundtable this year was "Sharing Our Strengths". The idea was a strong and independent defense bar helps not only the law firms but also the insurance industry. The goal of this year's roundtable was to strengthen the lines of communication within the insurance/defense community. The discussion concentrated on the financial challenges that the law firms face and the competitive pressures which the insurance companies must operate under. There were approximately 40 people in attendance including senior insurance claims executives and leaders of the defense bar. One important topic was "Putting the Profit Back in Insurance Defense." There were many ideas passed among the attendees, but little was resolved. Not surprisingly, the law firm representatives wanted higher rates and the insurance company representatives wanted greater efficiency and better management from the law firms. A second important topic that was discussed was "Litigation Management: Necessary Evil or Tool for Success? There is little doubt that litigation management is here to stay. Litigation guidelines and budgets are being used in the evaluation of outside attorneys.

The meeting ended with the group discussion on the present state of the relationship. It was generally agreed that the relationship between the outside panel attorneys

and the insurance industry is significantly better than in the middle and mid-90s but still there is lots to be done.



SECRETARY'S REPORT

GEORGE M. WALKER (AL)

As is usually the case, there is nothing of substantial importance for your Secretary to report to you at this time. The annual meeting in San Diego was conducted according to the By-Laws and Constitution of the Association, so I wasn't able to jump in and claim that Steve Crislip had committed some egregious violation. The meeting of the Executive Council went off without a hitch, so I did not have an opportunity to stir up anything there. I have learned, in fact, that when the President efficiently organizes and runs the meetings, there is little for the ADTA Secretary to do other than to take notes and prepare minutes, which are the primary tasks that I accomplish.

I look forward over the coming year to the arrival and involvement of Peggy Schultz as the Association's first Executive Director. Peggy will be undertaking a variety of duties, including some that I currently perform, many that Lynnette Baldovin currently performs, as well as many that Glenn Morgan currently performs. This will be a year of transition in many respects, as we acclimate Peggy to the various responsibilities that we hope that she will be able to take over. In short, as someone who concedes that he has very little current responsibility, I am looking forward to having even less responsibility after Peggy comes onboard.

MEMBERSHIP NOMINATION

I would like to nominate _____ for (prime)(associate) membership in
(proposed members' name)

the ADTA. Please send an application to _____
(name)

at _____, _____.
(city) (state) (zip)

Office telephone: _____ Office fax: _____.

Year admitted to practice in my state: _____.

Name of Member (Print)

Signature of Member

Return to:

Glenn S. Morgan, Ryan, Smith & Carbine; Mead Building, 98 Merchants Row, P.O. Box 310, Rutland, VT 05702

Tel.: (802) 786-1045;

Fax: (802) 748-8502;

Email: gsm@rsclaw.com

Membership Requirements

A trial lawyer doing principally defense work in insurance and self-insurance activities, with more than five (5) years defense trial experience is eligible.

Prime Members: The first lawyer member from a firm is the prime member. There can only be one Prime Member from any town, city, or metropolitan area of less than a million population. One additional Prime Member is allowed for each additional one million population, or portion thereof, for a city or metropolitan area.

Associate Member: Partners or associates of a Prime Member are eligible and encouraged for membership as Associate Members, at the will of the Prime Member.



SAN DIEGO REVISITED

STEPHEN R. CRISLIP (WV)
STEVEN C. MITCHELL (CA)

Outstanding, as they say in the military, would be my description. Our members had the grand opportunity of playing the 2007 ADTA Open overlooking the Pacific Ocean on the course where the 2008 U.S. Open will be played. The Hilton at Torrey Pines turned out to be a terrific venue for a group of our size.

Featuring the military which has so dominated the Del Mar Peninsula since before California became a state, we had the opportunity to go the Marine Air Station at Miramar and tour the former "Top Gun" facility. The F-18 Hornet Squadron called "The Sharpshooters" acted as our hosts and put on an interesting light show with their carrier training night operations. We were joined there and at the Officers' Club for dinner by actor Morgan Freeman, a guest of Bill and Francine Lockett.

Despite the fact that we caught one of the three days a year that it seems to rain in San Diego, the trolley tour of the San Diego Zoo and the up-close animal visit was well received and many of us had an opportunity to dine in the

Gas Lamp District downtown thereafter. On Saturday morning, the Captain of Seal Team One gave an interesting presentation of the role of the Seal units in the modern military. We ended our adventure with a lovely black tie dinner in the pavilion overlooking the Pacific.

Steve Mitchell's CLE Committee targeted CLE for the defense trial attorney that was well received. It showed that there is a significant difference between someone just presenting a paper and a real speaker. Our speakers were entertaining and provided us as defense lawyers with our required recurrent training as Top Gun lawyers.

In my opening remarks, I reminded our members that if you came to San Diego for an ADTA meeting and didn't have a good time, you seriously needed to think about counseling. I trust that proved to be a true statement. We seemed to provide something for everyone. Our female guests and members spent a lot of time talking to the young F-18 pilots in the cockpits of the Hornets, but the guys got back on track when we learned that John Clifford had authorized the expenditure of ADTA registration funds for the Olson Sisters of California to be the back-up dancers for the dance band, Atomic Groove. Due to the hands-on efforts of many ADTA members and their spouses, this was a spectacular meeting from my point of view. The Cliffords and the Mitchells deserve the credit for a right proper ADTA meeting in their home state.

THE ASSOCIATION PRESS

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