

# *the* **Association** *press*



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## **PRESIDENT'S MESSAGE**

*Gerald W. Weedon (FL)*



As I write this President's Message, it occurs to me that some of you may not be at the Annual Meeting to hear the report of what a great year Kathy and I have had serving the ADTA. We have traveled with the leaders of our sister organizations to the annual meetings of the other groups while representing the ADTA. It has been a unique opportunity for

us to fill this job. We are grateful for it and thank you.

The fall is a very busy time for the ADTA. The final touches are being put on the brochure for our Dublin Annual Meeting at the Westin May 4-8, 2004. You should have already received it by the time this publication arrives. If you haven't received the brochure and would like to come to Dublin, please contact our assistant secretary, Lynnette Baldwin, for the materials.

Our Executive Council met in November. There are some very positive things to report to the membership. Our finances are strong and our membership numbers are steady.

Our Marketing Committee headed by Steve English remains active. You may have received the survey that was recently sent under the auspices of this group (a summary is included in this publication). Our objective is to find ways to better serve our members. One of the items being discussed is the institution of regional meetings rotating in

location. This regional meeting will be an opportunity for members who aren't able to make an annual meeting to be able to share in the networking opportunities of the ADTA. The meeting would also provide a forum for state chairs in a region to get some tips on recruiting and possibly bringing potential members to the event. Look for further information on this idea in the Monday e-mail and in other correspondence from the ADTA.



## *the irish edition*

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We are working hard on the annual meeting in Dublin. Kevin and Gail Kelly are putting together a great time in Ireland. The pre-trip sightseeing and golf outing is sold out, with a waiting list. The CLE Committee has completed its work. Our Executive Council, mindful of the extra expense of a trip to Ireland, has voted a discount into our registration fee this year. We are also offering an emeritus registration fee to give those members an extra incentive to come to Dublin. Finally, our annual dinner dance will be semi-formal and we are encouraging the "wearing of the green"-- tie, that is, in honor of our Irish venue.

As you know, we are sponsoring, along with the IADC, FDCC and DRI, an international seminar in Barcelona immediately following our annual meeting. In an effort to encourage our members to attend this seminar, the Executive Council has decided that the ADTA will pay for the extra night hotel room that is required by the transfer from the end of our meeting to the beginning of the seminar for any member attending the Annual Meeting who goes on to Barcelona. This incentive is part of our marketing commitment to the sponsorship of the event. It is especially well received by our sister organizations because we have no European members, as they do, who have been called on for help in the seminar.

There are many other exciting things happening in the ADTA. John Clifford is chairing a National Legal Issues Committee that will oversee the continuity of our CLE and bring to the attention of our members national issues of interest to their practice.

Our search committee is addressing the site of our convention in 2007. There are some great options on the table. Tony Tunney is chairing that effort.

Thanks to our retiring Membership Chair, Steve Crislip, for his hard work these past eight years. Glenn Morgan will take over these duties and has been "co-chairing" with Steve this year.

Thanks to our out-going editor of the Association Press, Gordy Broom (that's a good way to describe Gordy isn't it? "outgoing" he is, you know). Matt Bailey is his able successor. Matt has hit the ground running and will do a great job.

Finally, thanks to all the directors who have done a terrific job for the ADTA this year. Special thanks to our retiring class of directors: Adrienne Baumgartner, Dick Harris and Lou Leonatti. Each has in his or her own way enriched our Association.

Hope to see you in Dublin!



## ADTA 2004 ANNUAL MEETING, DUBLIN IRELAND

*Kevin and Gail Kelly (NY)*  
*Glenn and Betsy Morgan (VT)*

The Dublin renaissance is now in full swing. The cities of Joyce, Beckett, and Wilde that has emerged as a center for European art, music, literature and business can now claim the title of "Host City for the May 2004 ADTA Annual Meeting." Jerry and Kathy Weedon are very excited to welcome you to Ireland for what promises to be an unforgettable meeting. Please make your plans early to join us there.

We'll be right in City Centre, directly across from Trinity College, near Grafton Street, St. Stephen's Green, and the Temple Bar area. Our hotel is The Westin, Dublin, a new five star Starwood property, which is the site of the former Allied Irish Bank built in 1863.

While there is plenty to keep you busy within walking distance of the hotel, to know Dublin you must also explore the whole city and its surrounds. The best way to do this is to take the "hop on/hop off" tour buses which you can pick up in front of the hotel and which cover dozens of local sights and attractions. There are also wonderful opportunities to experience some of the beautiful countryside and sights just outside Dublin on the optional tours.

### THE MEETING

The meeting begins on May 4, 2004 with the President's Reception at the Westin in the magnificently restored 19th century Banking Hall. The Hall will be the site of our CLE program the following two mornings. On Wednesday evening, May 5th, a reception is planned at Dublin City Hall, one of Dublin's finest neo Classical buildings that dates from 1779. Thursday evening, May 6th, is a "free night" with an official pub crawl to the Temple Bar area, or an opportunity to take in some fine Dublin theatre. On Friday morning, May 7th, we will gather to listen to Ben Briscoe, former Lord Mayor of Dublin, talk about his City and his people. It promises to be both entertaining and enlightening. On Friday evening, May 7th, our dinner dance will be held at Royal Hospital Kilmainham, a splendid 17th century historical site and home today to the Irish Museum of Modern Art. The building is set on 48 acres of formal landscaped gardens and tree lined avenues. Our meeting concludes with a farewell brunch at the Westin on Saturday, May 8th.

## SPECIAL EVENTS AND OPTIONAL TOURS

The **golf tournament** will be held at St. Margaret's, a historic golf facility twenty minutes from City Centre. The **spouse's breakfast** is planned for Thursday, May 6th with a noted Dublin historian to add some local color to the event.

Optional tours within Dublin City include a guided tour of **Trinity College, Dublin** to view the Trinity library and the 8th century manuscript, the Book of Kells. Also offered is a guided tour of the **National Gallery of Ireland**, which features a renowned collection of Irish paintings and works from every major European School of Painting.

Another optional tour explores the **North Coastal area of Dublin County**, including visits to Howth Village, Portmarnock, and Malahide. Malahide Castle, one of the oldest and most historic castles in Ireland, was both a fortress and private home of the Talbot family for almost 800 years. Its Great Hall is reputed to be one of the most important medieval rooms in Ireland, dating from 1475. The house is furnished with beautiful period furniture and an extensive collection of Irish portrait paintings, mainly from the National Gallery.

On Thursday, there will be a choice of two tours to explore the areas outside of Dublin. The **Boyne Valley** tour will take you north to the "Royal County," County Meath. The tour includes a visit to the Hill of Tara, the seat of the High Kings of Ireland. Traveling along the Boyne Valley, the tour visits some of Ireland's most ancient and historic areas. A visit to Bru na Boinne includes Newgrange, regarded as the world's first Solar Observatory, and the Neolithic passage tombs, which predate the Pyramids in Egypt. The next stop is Mellifont Abbey, one of the oldest monasteries in Ireland, and then on to Monasterboice where there are well preserved structures including High Crosses with the original Celtic symbols.

The other tour on Thursday travels south of Dublin to the Wicklow Mountains to **Powerscourt and Glendalough**. Glendalough is the site of the most impressive monastic remains in Ireland. Founded by St. Kevin in the 6th century, the restored settlement on the shore of two beautiful lakes provides an accurate portrayal of the life in early Christian times. Just above the Wicklow Mountains lies Powerscourt House and Gardens. The house has been restored and the court gardens offer glorious views, lakes, fountains and a Japanese garden. There will be a stop at the house for tea before the return trip to Dublin.

## PRE MEETING TRIP TO THE WEST

Our pre meeting trip for golf and sightseeing to the West of Ireland has been well subscribed with more than 80 people participating. With most of these people staying on in Dublin, we expect a great turnout for the meeting and recommend reserving early at the Westin.

## WEB SITES

For those that would like to get a head start on planning their trip to Ireland and visit to Dublin, we recommend exploring the following web sites which are full of useful information:

1. Saint Margaret's - [www.stmargaretsgolf.com](http://www.stmargaretsgolf.com)
2. Photos Ireland - [www.colinryder.com/travel/ie/page01.html](http://www.colinryder.com/travel/ie/page01.html)
3. Irish Photos - [www.irishphotos.com](http://www.irishphotos.com)
4. Royal Hospital Kilmainham - [www.rhk.ie](http://www.rhk.ie)
5. About Dublin - [www.visitdublin.com](http://www.visitdublin.com)
6. Dublin Writers' Museum - [www.writersmuseum.com](http://www.writersmuseum.com)
7. Law Society of Ireland - [www.lawsociety.ie](http://www.lawsociety.ie)
8. Wallace Travel - [www.wallacetravelgroup.com](http://www.wallacetravelgroup.com)
9. Irish Tourist Board - [www.ireland.travel.ie](http://www.ireland.travel.ie)
10. The K Club - [www.kclub.ie](http://www.kclub.ie)
11. Ireland Weather - [www.onlineweather.com](http://www.onlineweather.com)
12. Golf - [www.golfingireland.com](http://www.golfingireland.com)
13. Frommer's Guide - [www.frommers.com](http://www.frommers.com) or [www.frommers.com/destinations/ireland](http://www.frommers.com/destinations/ireland)
14. Cork/Kerry Tourism - [www.corkkerry.ie](http://www.corkkerry.ie)
15. Cork/Kerry Fishing - [www.corkkerry.ie/angling](http://www.corkkerry.ie/angling)
16. Sights in Galway - [www.galway1.ie/sights/](http://www.galway1.ie/sights/)
17. Pictures of Galway - [www.irishholidays.com/ggtstart.html](http://www.irishholidays.com/ggtstart.html)
18. Killarney Golf and Fishing Club - [www.killarney-golf.com](http://www.killarney-golf.com)
19. Maps Killarney - [www.killarneyonline.ie](http://www.killarneyonline.ie)

We look forward to seeing you in Dublin!



## ADTA MEMBERS URGED TO ATTEND BARCELONA CONFERENCE

The DRI Joint International Conference will be held in Barcelona, Spain immediately following the ADTA Dublin meeting. The Dublin meeting will conclude with a dinner/dance on Friday, May 7th. The reception for attendees of the DRI meeting will be on Sunday, May 9th. The program will commence Monday, May 10th, and conclude in the early afternoon of May 11th. An additional cocktail hour with hors d'oeuvres is planned for Monday evening, May 10th. Dining in Barcelona's wonderful restaurants will be available for attendees who are seeking to enjoy the Barcelona/Spanish nightlife on Monday night.

The DRI meeting will be held at the famous and beautiful Hotel Arts Barcelona, a Ritz Carlton property. Special rates and reservations have been set aside for attendees who register prior to **April 8, 2004**.

The DRI meeting is jointly sponsored by the ADTA, DRI, FDCC and the IADC. This is the first attempt by all of the defense organizations to combine forces to sponsor a single program. ADTA members featured on the program include president elect **Gordon Broom** (IL), past president **Bobby Hood** (SC), and members, **Robert Jones, III** (AR), **Mike Aylward** (MA), and **Steve Gerber** (NJ).

A number of general counsel for both European and US corporations doing business on both sides of the Atlantic should be in attendance. In addition, European and US defense counsel involved with representing international corporations in the US and European courts are participating as registrants. The conference will offer an excellent opportunity to meet and network with potential European clients as well as to associate with the outstanding US and European defense counsel in attendance.

The subjects of the conference will include both US and European perspectives on topics related to insurance, product liability, class actions, and damages.

ADTA members are urged to attend this very important seminar sponsored by the defense bar of the United States. Your attendance will not only enable you to market you and your law firm but the ADTA as well.

Registration may be made directly on the internet at: [www.dri.org](http://www.dri.org).

At its annual meeting in November, the ADTA Executive Council voted to provide for one night's lodging for ADTA members attending **both** the

ADTA Dublin meeting and the DRI Joint International Conference. ADTA members who leave Dublin and go to Barcelona will be reimbursed the expense of Saturday night's room at the Hotel Arts Barcelona on Saturday, May 8th. A special ADTA function is also being planned for the ADTA members on Saturday night. This is a great chance to see not only Dublin but also the favorite destination city of Europeans, Barcelona, Spain, on your trip to Europe in May of 2004.



## ADMINISTRATIVE WEBSITE

*GLENN MORGAN (VT)*

At the request of Steve Crislip and with his guidance, and the assistance of Jim Gauthier, Bob Tait, Lynnette Baldovin, Russ Roberts and the approval of Jerry Weedon, our group was able to develop an administrative website for ADTA. This includes a membership directory that can be utilized to update information on all our members. In addition, it creates administrative user privileges.

The administrative members of the Association will be able to research membership by status, Region, State, City and Chairs. The data can be viewed on screen and downloaded into Excel. This information also includes a hyperlink from our database to the member's individual websites.

This website will allow printing bulk invoices, dues amounts, mailing labels, and noting paid and reminder information. This function will be extremely valuable to Bob Tait who will be able to print invoices and follow-up on dues from this website. It will also assist membership as well with any bulk mailing, dues information and membership status.

Additionally, the Association is looking into improvements to our main Website in 2004. Some things being considered include updating the find attorney page, adding an of interest page and updating the officers page. Look for these new changes in 2004.





## MEET GORDON BROOM PRESIDENT ELECT (IL)

A happy coincidence led to our meeting with Holly and Gordy Broom at their first two ADTA meetings which has developed into a friendship recently enhanced by our travels together on the defense bar circuit as representatives of the ADTA.

At their first meeting in London, Holly and Gordy were immediately noticeable because of their travelling companion - their outgoing 5 year old son, Joe. Joe made friends with everyone at the meeting and introduced his parents to all the delegates. That young man is now in his freshman year at Kansas University.

The next year in Las Vegas, Kathy and I happened to be seated at the same table, but not next to Holly and Gordy, at the black tie dinner. When the dance band struck up the first tune, we independently took to the dance floor, met up there and never sat down at the table again. Our friendship had been cemented. Throughout the decade or so since then, we've had some memorable good times with the Brooms, from karaoking on Bourbon Street (you really should hear Gordy sing "Teddy Bear" - it may have hastened the King's demise) to touring old Savannah plantations together.

The Brooms are a fantastic couple in true ADTA style-friendly, accomplished and sociable. At its 64th Annual Meeting in Dublin in May 2004, Gordy will become the 55th president of the ADTA.

Gordy has an impressive professional resume. He is a partner in the Madison County, Illinois law firm of Burroughs, Hepler, Broom, MacDonald, Hebrank & True, LLP. Madison County and St. Clair County, Illinois, are part of the greater St. Louis metropolitan area and are widely known as active personal injury venues. His trial experience covers practically every area of personal and bodily injury litigation, including lawsuits involving the Structural Work Act, medical malpractice, products liability, maritime law as well as general negligence.

Gordy graduated from the University of Illinois College of Law in 1969. He served as Assistant

Dean of the College of Law at the University of Illinois from 1969 through 1971. He received his undergraduate degree from the University of Illinois in 1966.

He was first elected to the Board of Directors of the Illinois Association of Defense Trial Counsel in 1986 and served as President of the Association in 1995-96. He received the DRI Exceptional Performance Citation in 1996. He is an Advocate of the American Board of Trial Advocates and served as

President of the Missouri/Southern Illinois Chapter in 2001. He is a Fellow of the American College of Trial Lawyers, a member of the International Academy of Trial Lawyers and the American Bar Foundation.

During his third year of law school at Illinois, Gordy became the men's director of a residence hall. He used his newfound powers of persuasive argument to entice a lovely co ed who lived in the hall to go on a date with him. They

married shortly thereafter and formed their lifelong partnership. In addition to Joe, Holly and Gordy have two other children and two grandchildren. Their daughter Becky is a senior at SIU Edwardsville, and son Ben and his wife Amy are both graduates of Indiana University. Ben and Amy are the parents of the Broom's grandchildren - Grace Elizabeth, almost 2, and Maxwell Benjamin, 6 months.

Besides family activities and learning the ropes as new grandparents, Gordy and Holly love to play golf. They've made lots of new friends on the defense circuit on the golf course. Holly is also an accomplished roller blader and swimmer, having recently logged her 500th lap mile over the last five years. She soloed in flight school during the first 3 months of their marriage, but Gordy clipped her wings.

The Brooms have already done a fantastic job as ambassadors of the ADTA in their year of traveling as president elect. Join us in congratulating our good friends, Holly and Gordy, as they begin their year as President and First Lady of the ADTA.





## A WAR STORY ABOUT THE DEFENSE SIDE

*Lou Scofield (TX)*

For many of us the side on the docket which we primarily occupy, the defense side, simply happened to us. For others it was a conscious decision based on data gathering and a legitimate decision making process. Perhaps for you it was simply in your nature to become a defense lawyer, as opposed to a plaintiff's lawyer. In my case, I became a defense trial lawyer because the defense gets to go second. I try to be ready by the second day of trial. I know that some of you higher order thinkers will insist that such is not a legitimate reason for opting for the defense side of the docket. If you suggest I became a defense lawyer for the reason consistently attributed to us by others: the desire for the steady paycheck, I can promise you that such was not in my thinking when opting for this side. As many of you know, very little of my thinking reflects the type of maturity and responsibility that is shown in a person making their job decision based upon the potential for steady income.

Perhaps I chose it for the challenge. In many ways, ours is the more difficult task, and, in some ways, the more virtuous task, especially in personal injury cases. It is our job to elevate the jury to its oath to not let bias, prejudice or sympathy affect their deliberations and findings in the case. Frequently, it is the hope of plaintiff's counsel that bias against corporations and sympathy in favor of injured plaintiffs will, in fact, carry the day. More often than not, it is the defense lawyer fighting to assure that the rules of evidence are followed rather than the whim of a particular judge. It is the defense side of the docket that turned the tide against the unqualified nonscientific testimony of professional "expert" witnesses. It is our side of the docket that more often than not is pressing for the application of common sense and reason, and against the conversion of our courts into a lottery for plaintiffs and their lawyers.

Of course, many defendants deserve to be unpopular, deserve to be sued and deserve to be held responsible in damages. Society is benefitted by the threat of litigation evening the playing field between those with little economic power and those with great economic power. But, of course, it doesn't work unless the law is applied fairly and damages held within the bounds of reason. It falls to us to see to it that fairness and reason prevail over the shotgun court, the biased jury, and those bearing false witness.

In light of this, allow me to suggest that the primary reason I became a defense lawyer, and have remained a defense lawyer (and part of the reason that you have remained a defense lawyer), is because people like us are needed on the defense side.

A story: 26 years ago I watched Dan Flatten (former ADTA President) try the *Joe Don King* case. It was a personal injury case where Joe Don King and a buddy (call him Jeff) were traveling up the Neches River, at night, when they collided with a barge owned by our client, Keown Supply. The Neches River, at night, is a particularly dark and forbidding place, especially the cypress swamps on the east bank of the river. Except for a few places where dry land has managed to wrinkle or bulge a foot or two above the surroundings, the east bank is mainly a habitat for alligators and snakes. A meeting of alligators and snakes in human form was the destination of King and Jeff. In particular, a paramilitary hate group was "training" that night and Jeff and his friend were on their way. They did not manage to get to the festivities because of their collision with our client's barge.

The dispute involved the existence or sufficiency of lighting on the barge, and the injuries sustained by the plaintiffs. The only witnesses to the accident were the plaintiffs themselves. Their credibility was their case. They were represented by Joe Tonahill, a magnificent plaintiff's lawyer of the old school. Some of you will recognize his name. He and Melvin Belli defended Jack Ruby. Anyway, through the beginning of the trial, the Court's rulings appeared to reflect the star power of Tonahill. As the case wore on, however, the trial was handled fairly by the judge.

This brings me to the particular vignette worth remembering. King and Jeff were lying. Their story about why they were on the river that night did not include their destination to their meeting of bigots. It was doubtful that they struck the barge. And their dramatic tale of collision and survival did not pass the smell test. But no specific impeachment was available as after all, they were the only witnesses.

During the cross examination of Jeff, questioning turned to the location of lighting in the plaintiffs' boat. Of course the lighting on their boat was irrelevant to their claim that Keown's barge was unlit, but Jeff did not know such. As Dan began interrogation on the point, Jeff showed a slight uncertainty. Sensing this, Dan approached the witness, practically crawled into the witness box with him, and exhibited to him a photograph of a similar boat to that which Jeff and King had been using. "Now where do you claim your light was?", Dan asked. Jeff's eyes moved to the photo, to Joe Don King, to his lawyer, to the jury and back to the photograph. For some reason known only to one who is lying, Jeff felt that the point was critical to his case. He

fumbled at pointing first to one spot on the photo, then to another. Long pauses ensued between these inconsistencies, and sweat literally formed on Jeff's forehead as Dan did not move from his perch beside the witness, and patiently allowed him to "twist in the wind." To Jeff, time seemed to pass like a viscous river. Quietly, Dan looked over to the jury and then back at the photograph. Finally, he returned to counsel table. Jeff was visibly relieved, but the damage had been done. Dan had not impeached the plaintiff with a prior inconsistent statement or the testimony of another witness. Neither was available. He had impeached the plaintiff with himself. Defense verdict.

Some years later, King made headlines (no pun intended) when his head was found in Louisiana, a significant distance from the rest of his body which was found in Texas. I guess paramilitary pals react differently when hacked off than your typical bridge club membership. In any event, the demise of Mr. King is, of course, not the point of the tale. The point of the tale is the example. There are sharp, brilliant lawyers among us; courtroom lawyers of the first stripe, such as Dan Flatten, who do the defense side for the best reason of all: because they are needed.



## LEGISLATIVE REPORT

*Daniel R. Formeller (IL)*

The fall session of Congress provided the forum for prolonged debate on two major issues of interest to trial lawyers: asbestos liability and class action reform. Although hotly debated and very divisive, legislation proposed on both issues failed to receive the necessary support for new law to be enacted.

**Asbestos:** Several attempts at compromise over a bill that would limit liability to businesses for asbestos exposure failed when monetary caps and fund administration details could not be agreed upon. The focus of the debate was on the size of the monetary fund that would be established by business and insurance companies to create a pool that would pay claimants with asbestos related illnesses and injuries. The bill became a lightning rod for debate on plaintiff compensation and contingent fees and ultimately both advocates and opponents to the bill were unsuccessful in their desired result. Expect another attempt at compromise legislation when Congress convenes in 2004.

**Class Actions:** The Class Action Fairness Act was cobbled together shortly before the Senate recessed for Thanksgiving. However, supporters fell one vote short of the required 60 needed to halt debate in the Senate and move toward a vote. During the ensuing three weeks further compro-

mise was made, but the bill has not yet been put into final legislative language. The proposed Act would allow plaintiffs to initiate interstate class actions but would mandate filing in federal court to prevent forum shopping by class action lawyers. In addition, the proposed legislation specifically addresses fees in class actions based upon coupons instead of cash, and would change the fee calculation to be based upon coupons redeemed rather than a pre determined cash fee. It is expected that this Bill will be resurrected in the next session of Congress.

**Federal Rules Changes:** On December 1, 2003, amendments to the Federal Rules of Civil Procedure take effect. A number of changes have been made to Rule 23 (class actions), but trial lawyers will be especially interested in amendments to Rule 51 (jury instructions). The amendments recognize the court's authority to direct that requests for instructions be made before trial and sets out specific procedures for handling untimely requests for instructions, objections and memorialization for the record.

Finally, don't overlook the change to Federal Rule of Evidence 608(b) (character evidence - specific instances of conduct). The amendment makes it clear that the absolute bar on the use of extrinsic evidence is applicable only when the sole reason for offering the evidence is to support/attack the witnesses' character for truthfulness.



## REGIONAL MEETING

We are aiming at having our first meeting in Chicago, near O'Hare, on February 27th. More information will follow by e-mail, phone or invitation.

We will have a media relations specialist who will explain how the media works, how to effectively "market" through effective use of the media, and will offer opportunities to role play for attorneys. Our second speaker will be an in-house corporate counsel, to explain how corporations have used media in high profile cases. Our third speaker will be an attorney who will address the ethics that govern what may and may not be said in terms of ethical guidelines in dealing with the press or news media. Our final speaker will be a trial consultant who will discuss the effects of positive and negative press on juries and will give insight into jury selection and debriefing in high profile cases.





## ADTA COMMITTEES 2003-2004

Internet & Technology Committee	Program & CLE Committee	Mandatory CLE Compliance Committee
Russell H. Roberts - Chair Lynnette M. Baldovin James D. Gauthier Philip C. Graham R. William Tooms	Daniel R. Formeller - Chair Matthew W. Bailey Kevin J. Kelly James F. Ryan	Thomas A. Sandenaw, Jr. Chair Lynnette M. Baldovin James D. Gauthier James F. Ryan William H. Staples
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Matthew W. Bailey - Chair Adrienne L. Baumgartner Gordon R. Broom John R. Clifford Patrick G. Cullen Bruce Keplinger Patricia J. Kerrigan Glenn S. Morgan	Stephen R. Crislip Chair Glenn R. Morgan Assistant Chair	John R. Clifford - Chair Michael F. Aylward Duane W. Grummer Bruce Keplinger Russell H. Roberts
New Member Sub-Committee	Marketing Committee	Women and Minorities Committee
Jennifer Lee Parish - Chair William B. Alverson, Jr. Matthew W. Bailey Edward L. Birk Stephen J. Heine Louis J. Leonatti Steven H. Pratt J. Burruss "Buzzy" Riis James F. Ryan	Stephen F. English - Chair Dennis M. Day Patrick D. deRouen Daniel R. Formeller Duane W. Grummer Glenn S. Morgan Samuel J. Pace, Jr. Anthony J. Tunney	Adrienne L. Baumgartner Chair John R. Clifford Stephen R. Crislip Mariam Decker Maureen M. Deskins Phyllis M. Hix Gail M. Kelly
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John R. Clifford	Louis J. Leonatti	Patrick G. Cullen
Northern Region Chair	2007 Site Selection	2008 Site Committee
Gary D.D. Morrison	Anthony J. Tunney - Chair	James W. Jennings, Jr. - Chair
<b>2009 Site Committee</b>		
	Steven R. Enochian - Chair	



### THE ASSOCIATION PRESS

#### EDITOR

**MATTHEW BAILEY**

MATTBAILEY@WALSHBAILEY.COM  
501 LOUISIANA AVENUE, POB 3157  
BATON ROUGE, LOUISIANA 70802  
225.383.8849

#### GRAPHICS/DESKTOP PUBLISHING

**DAVID MARTIN**  
2310 CENTERBROOK LN.  
KATY, TEXAS 77450  
713.651.8289



## REPORT ON ACTIVITIES OF MARKETING COMMITTEE

*Stephen F. English (OR)*

As all of the members are aware, the Marketing Committee recently completed a survey of our members in order to obtain information which will allow us to better focus our marketing efforts. It is fair to say that the quantity of results (360 of 543 members responded to the survey in some fashion) indicates a significant interest on the part of members in becoming more proactive as an organization and in having ADTA offer more marketing services to its members. The Marketing Committee has heard that message and is working on a two pronged focus.

We are planning our first (hopefully of several) Regional Meeting which will allow individual members and their selected guests to attend focused half day meetings on public relations. Our research has made it clear that while marketing is an excellent opportunity to develop, price, sell and promote a service, public relations appears to be a better way for attorneys to build target market awareness and to positively affect attitudes of clients and potential clients toward our services. It is also, by the nature of the various practices we have, something which cuts across virtually all of or four practice areas.

All of us have experienced high profile cases, whether it is something that reaches the national news, or something of local notoriety which is the subject of an article in a local newspaper. Not only is "no comment" no longer acceptable in many areas, but it is also, we have learned, passing up the opportunity to market through the effective use of media opportunities.

In addition to this regional program, which will form a model for future programs throughout the country, Glenn Morgan and the Marketing Committee are working toward the integration of enhanced website marketing opportunities for the individual members and their firms. Part of the marketing opportunities which we hope to extend to members, in addition to the regional programs and the website opportunities, is to utilize the resources of a marketing/PR firm to allow members who have marketing opportunities or questions to take advantage of marketing and PR specialists who are available to ADTA members as a service of ADTA. In conjunction with the Executive Committee and as a result of the survey results from our members, we are actively exploring additional marketing opportunities for our ADTA membership.



## ADTA SUMMARY OF SURVEY RESULTS

### E MAIL PERFORMANCE SUMMARY:

The response and completion rate of the ADTA member survey was much higher than the industry average.

The survey was sent to 570 members (37 of those e mails failed to reach the recipient)

360 members completed the survey in some form

The following is a summary of the survey results.

#### MEMBERSHIP:

- \* 63% of respondents value their ADTA membership:

#### CONTACTS

- \* Building relationships with attorneys throughout the country

#### NETWORKING

- \* 63% of members state that the ADTA helps them stay abreast of current civil defense trends.
- \* 68% of members said that the ADTA alerts them to professional education opportunities.

#### NEW BUSINESS:

- \* 54% indicated that the ADTA helped increase their new business opportunities "somewhat." When asked how much they increased:
- \* 49% responded less than 10% and
- \* 39% responded 10 19%.

#### ALLIANCES:

- \* 87% of members are interested in alliances and collaborations with other ADTA firms and organizations.

#### MARKETING:

- \* 65% of members do not feel they are being adequately marketed by the ADTA.
- \* An overwhelming 91% of members would be interested in inclusion in a regularly updated ADTA member database.
- \* 49% of members are interested in attending regional/local day programs with access to a media expert on how to promote their practice and speak with the media.

- \* 59% would like background information and stories on national legal issues and most would be interested in using this information to comment on the story to local/regional media.
- \* 26% of members are willing to spend an additional \$225 in annual fees to cover a public relations budget. 40% are not sure. 20% are not willing and 15% are not willing at all.

#### VALUE:

- \* Members responded that the ADTA could increase its value to them by:
- \* A referral program
- \* Members promoting other members
- \* A marketing plan
- \* Communication about how to improve member practice areas in their respective states
- \* Sharing expert information.



## NEW MEMBERS

- Jeffrey M. Grantham** - Birmingham, AL  
**Hayes G. Wood** - Miami, FL  
**Michael L. Eckert** - Rhinelander, WI  
**William C. Anderson** - Marietta, GA  
**Bridget L. Dunaway** - London, KY  
**D. Wade Emmert** - Dallas, TX  
**F. Barron Grier, III** - Lexington, SC  
**Evans Taylor Barnette** - Columbia, SC  
**Carrie J. Legus** - St. Johnsbury, VT  
**Charles C. Huber** - Seattle, WA  
**Marie-Claude Cantin** - Montreal, QC  
**Darryl S. Vereen** - El Paso, TX  
**Mark C. Walker** - El Paso, TX  
**Alan D. Wilson** - Kokomo, IN  
**David W. Zizik** - Wellesley, MA  
**Matthew W. Carlson** - Washington, DC  
**C. Michael Montgomery** - Denver, CO  
**Edward C. Bacon** - Greenbelt, MD  
**Alton B. Lewis** - Hammond, LA  
**William J. Gamble** - Selma, AL  
**Robert M. Tyner, Jr.** - Clarksdale, MS  
**Stacy Christopher Auzenne** - Alexandria, LA  
**Cathryn Spaulding** - Wellesley, MA  
**Michael A. Klutho** - Minneapolis, MN  
**Mark P. Hodkinson** - Minneapolis, MN  
**Joseph M. Puzo** - Islip Terrace, NY  
**Dustin J. Denning** - Salina, KS  
**Mark T. Guerra** - Pleasanton, CA



## ABOUT OUR MEMBERS



**Lou Leonatti (MO)** was recently appointed to the Missouri Supreme Court's Committee on Jury Instructions Civil. This is a ten member committee charged with drafting and revising the Court approved pattern jury instructions for civil jury trials. Their use is mandatory in Missouri.

**Carl Green (TX)** and **Keith Meyers (TX)** were selected by their peers as Texas Super Lawyers for 2003 in the field of insurance defense/personal injury defense. This was a pool conducted by Texas Lawyer Magazine, and lawyers were elected after a peer review by Texas Lawyers.

**Russ Roberts (VA)** was again named as one of only two Fredericksburg attorneys as the "Legal Elite" in Virginia by Virginia Business Magazine. Extensive polling of attorneys is done each year, and Russ was one of the elite for "civil litigation."

**Edwin E. Wallis, Jr. (TN)** was elected last year as a Fellow in The Tennessee Bar Fellows.

**Mariam Decker (MO)** has moved to the firm of Oliver & Walker, L.L.C. She will be the new prime member from Columbia, Missouri.

**Francisco J. Colon-Pagan (PR)** was designated a member of the ADA House of Delegates by the Puerto Rico Bar Association. In November his firm, Colon, Colon & Martinez, P.S.C., was a recipient of the Sears Roebuck Partner in Progress Award for 2002. Frankie was also appointed to the Board of Directors of the Puerto Rico no fault automobile insurance program by the Governor of Puerto Rico.

**Stephen R. Pennell (IN)** was elected to become the President of the Defense Trial Counsel of Indiana. His term began on January 1, 2004. He was also elected chair of the Litigation Section of the Indiana State Bar Association.

**David E. Chamberlain (TX)** has been elected President Elect of the Texas Association of Defense Counsel. He also chairs the association's political

action committee and will serve as TADC's President during 2004-2005. He is managing partner of Chamberlain McHaney in Austin, Texas.

**Michael H. Runyan (WA)** was recently inducted as a Fellow of the American College of Trial Lawyers. The College is comprised of the best of the trial bar from the United States and Canada. The Fellowship is extended by invitation only. Membership cannot exceed one percent of the total lawyer population of any one state or province.

**Adrienne L. Baumgartner (LA)** will assume the role of President of the Louisiana Association of Defense Attorneys (LADC) in April, 2004. Adrienne's father, Alfred "Smitty" Landry (LA) was President of the LADC in 1979. The LADC was formed in Baton Rouge in 1963 on the weekend John F. Kennedy was assassinated.



## NATIONAL LEGAL ISSUES

*John Clifford (CA)*

In an ongoing effort to keep ADTA members abreast of current topics across the country, Jerry Weedon has formed the National Legal Issues Committee. I am the chair, and Russ Roberts, Bruce Keplinger, Duane Grummer and Mike Aylward are members. As many ADTA members hold leadership positions in defense organizations throughout the country, the committee would welcome your input to circulate amongst our members.

According to the American Tort Reform Association (ATRA), the cost of civil litigation rose to \$233 billion in 2002, an increase of \$27.4 billion over 2001. The largest component according to ATRA is asbestos liability which accounted for \$11 billion in 2002. Medical liability costs were reported as rising at a higher percentage than all other tort costs. Congress addressed both of these issues with mixed results.

Senator Orrin G. Hatch introduced legislation to limit asbestos liability (Fairness in Injury Resolution Act of 2003 (the FAIR Act)), which calls for the creation of a trust fund of \$114 billion to be paid out over 27 years. In October, 2002 the asbestos manufacturers and insurance industry reached agreement on their respective contributions to the fund with manufacturers picking up 54% of the tab and their insurers the remaining 46%. However, there remains strong opposition to the legislation from both labor and trial lawyers who contend that the fund is insufficient. Additional information on the FAIR Act can be found in an article entitled, "The Fairness in Asbestos Injury Resolution Act of 2003" authored by Frank Winton Jr. and William A Schreiner Jr. of

Shaw Pittman LLP for DRI in September 2003. ([www.dri.org/dri/pdf/feature\\_Sept2003.pdf](http://www.dri.org/dri/pdf/feature_Sept2003.pdf))

A Medical Malpractice liability bill entitled Patients First Act of 2003, a measure intended to limit non economic damages and contingency fee awards, passed the House but stalled in the Senate. It is anticipated that this legislation will be revived.

Class Action litigation is also a hot topic of tort reform. This topic is particularly prevalent in what ATRA has labelled "Judicial Hellholes", those jurisdictions around the nation where the law does not appear to be evenhandedly applied. The top 3 Judicial Hellholes for 2003, according to ATRA were : 1. Madison County, Illinois; 2. Jefferson County, Texas; and 3. Mississippi's 22nd Judicial Circuit. Federal legislation known as the "Class Action Fairness Act" is winding its way through Congress to curb some of the abuses found in the Judicial Hellholes. One aspect of the legislation is to allow the removal of a case from State to Federal Court based on the number of plaintiffs in the class who reside out of state.

Lou Leonatti informed us of an interesting case out of Missouri involving the use of house counsel by Allstate. The Court of Appeals in Richter v. Kirkwood, 111 SW3rd 504 (Mo. App SD 2003) allowed plaintiffs counsel in Voir Dire to inform prospective jurors that defense counsel was employed by Allstate. According to Lou this is a case of first impression in Missouri.

Some useful internet sites to assist ADTA members include:

[www.atra.org](http://www.atra.org) (American Tort Reform Association)

[www.hcla.org](http://www.hcla.org) (Health Coalition on Liability and Access)

[www.rand.org](http://www.rand.org) (Rand Institute for Civil Justice)

Please do not hesitate to forward new developments in your jurisdictions to share with fellow ADTA members.



## ADDITUR

*Adrienne L. Baumgartner (LA)*

Barbara and Steve Enochian are first time grandparents. Their son, Sam, and his wife, Sarah, presented them with Spencer Warren Enochian on November 19, 2003. Taking after his father, Spencer was 10 lbs 9 oz and 20' inches. Mom and baby are doing great. Sam and Steve have already contacted the coach at Cal and sent him pictures and stats.

Edwin Wallis' daughter, Mollie Wallis Carter, Class of 2001, Harvard Law School, is a third year associate in the New York Law firm of Sherman & Sterling. Her practice encompasses securities law. His son, Edward E. Wallis, Jr., is a third year law

# 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:

Stephen R. Crislip, Jackson & Kelly; 1600 Laidley Tower, Post Office Box 553, Charleston, WV 25322

Tel.: (304) 340-1180;

Fax: (304) 340 1050;

Email: [scrislip@jacksonkelly.com](mailto:scrislip@jacksonkelly.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.

student at the University of Richmond School of Law. He will graduate in May and has accepted a position to be the first law clerk of newly appointed Federal Magistrate, Tom Anderson.

Marc Williams and his wife Nancy have a new baby, Wyatt Ellis born on August 3, 2003. Wyatt joins his brothers, Benjamin (12) and Alex (8).



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## **BOOK REVIEW**

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*Patrick G. Cullen (MD)*

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LAWYER My Trials and Jubilations by Joe Jamail, Eakin Press (2003). 276 pages, \$24.95.

Our President Elect, Gordon Broom, suggested this book for review. I suspect he knew a lot more about Mr. Jamail than I. This partial autobiography is by a 78 year old Texas lawyer who has won some huge verdicts including a 10.5 billion dollar jury verdict in Penzoil v. Texaco. He claims that his victories have directly led to the recall of three products, a Remington 600, the Honda All Terrain Three Wheel Vehicle, and the prescription drug Parlodel.

As you expect with an autobiography, there is plenty of background information to include how he got into the Marines without parental approval and how he got into law school without taking the entrance exam. He recounts the highlights of his career, with a major emphasis on the Penzoil case. Toward the end of the book, the editor includes the text of Jamail's closing argument to the Penzoil jury. It is a rambling, disjointed stream of consciousness commentary that would surely be called ineffective by any standard (if it were not for the astronomical jury verdict).

Mr. Jamail, either in spite of or because of his roughness around the edges, has literally made millions and has shared his wealth with a number of public institutions. The University of Texas football field, for instance, is named after him, and two of his best friends are football coach Darrell Royal and celebrity Willie Nelson. Throughout the book, his ideas on what to say to the jury and why to say it are set forth. The final 10 percent or so of the book consists of comments by a variety of folks who know him and respect him. Their observations shed even more light upon what drives Joe Jamail. From the defense perspective, the book is interesting reading. It is good to know what those guys are thinking.

***THE ASSOCIATION PRESS***

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