

# The Association Press

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## IN THIS ISSUE

PRESIDENT'S REPORT TO MEMBERS ...	1
INTERNET AND TECHNOLOGY .....	3
THE GREENBRIER 2013.....	3
VANCOUVER 2014.....	4
MEMBERSHIP REPORT .....	4
NEW MEMBERS .....	5
NATIONAL LEGAL ISSUES.....	9
A WORD FROM LOU .....	10
ABOUT OUR MEMBERS.....	11
MARKETING – WE PREFER TO REFER .....	11
WHAT'S NEW IN MY STATE .....	11
RUMORS, GOSSIP AND INUENDO .....	13
BOOK REVIEW .....	13
SPOUSES' COMMITTEE.....	14
MEMBERSHIP COMMITTEE LIST .....	14
MEMBERSHIP NOMINATION FORM.....	16

## PRESIDENT'S REPORT TO MEMBERS

STEVE HEINE



The Greenbrier meeting is scheduled for April 17-21, 2013. Whether you have been to White Sulphur Springs, West Virginia many times or whether this is your first trip to the magical and peaceful Greenbrier, you are guaranteed a great trip and a fabulous legal education!

As I write this, we just returned last night from the ADTA Executive Council meeting at The Greenbrier. A special thanks goes to Past President and First Lady Steve and Melinda Crislip. ADTA is fortunate to be able to visit this unique resort in 2013 and Steve was able to negotiate for us very reasonable rates for accommodations.

The Greenbrier is easily accessed by way of the Charleston or Lewisburg, West Virginia or the Roanoke, Virginia airports. The drives from Roanoke and from Charleston will take you through some of the most wonderful scenery imaginable.



The Spouses' Committee, ably lead by Melissa Bailey, has a full week of fun activities planned for our non-lawyers. Melissa polished her horseback riding skills at the Executive Council meeting in November. There are walking trails, shopping, book club and golf possibilities all on the site. There are more shopping opportunities galore just 30 minutes away.

For golfers, The Greenbrier is the place to be. Even those of us somewhat challenged at the game (names withheld) can have a great time playing the Meadows Course, one of three on The Greenbrier property.

The Executive Council had a full agenda for the fall meeting and it just concluded. As in our firms, the future of the ADTA is in its Associates. Therefore, the ADTA Executive Council has adopted a program which allows any Prime Member to add Associate Members from now through February 28, 2013 **at no cost (FREE) for the first year as long as the Associate remains a member for a period of two years thereafter. Starting April 1, 2014 regular Associate dues will be assessed.**

Each Prime Member should have and is expected to have at least one Associate Member from the Prime Member's firm.

The State Chairs and Regional Chairs will be personally calling each member to invite each Prime Member and each Associate Member to The

Greenbrier meeting and to invite each Prime Member to nominate one or more new Associate members.

The “One in a Million” Committee, chaired by Fred Raschke, completed its work and reported to the Executive Council at the EC meeting. Our membership wants the ADTA to remain an exclusive group with limited membership. An overwhelming majority of ADTA members want the organization to stay as it is. The limited membership structure of the ADTA is one of the things that distinguishes the ADTA from our sister organizations, the IADC, the FDCC, our two closest “sister” organizations, and DRI. Our limited membership does pose some challenges in light of the consolidation of the law practice and the growth of member firms with multiple offices over the last 30 years or so.

Jamie Hood of Charleston South Carolina, the Chair of the ADTA New Generation Committee, presented a thoughtful written report to the Executive Council at The Greenbrier EC meeting. Jamie and his committee will be contacting some of you to implement the plan of that committee which builds upon the programs developed by Steve Pennell, Past Chair and now Co-Chair of the committee:

- Creating a master list of mentors for new members
- Creating a two-year “Playbook” for new members and mentors
- Working with the “We Prefer to Refer” Committee to educate new ADTA members about that program
- Working with new members and first time attendees at the Annual Meeting and before to facilitate meaningful involvement and attendance at the Annual Meeting by new members.

ADTA Webinars have been very well attended. Lori Berke and her committee have carried forward the work that Steve Pennell did to begin the webinar program and have done so in a fine fashion. We will plan two more webinars before the Annual Meeting at The Greenbrier. These are without cost to any ADTA member. Non-members of the firm are welcome to attend and participate. CLE credits can be obtained, but members need to submit CLE requests themselves to the appropriate CLE entities.

The Press has a new Assistant Editor, James Holland from Jackson, Mississippi. James and Ouida were in attendance at the DRI meeting in New Orleans and at the ADTA dinner. James has a future in video production as he demonstrated to the DRI Board of Directors, so we know that his skills will be of great assistance to Linda Hay in making the Press an even finer publication.

The IACP is an organization of Claims Professionals, formerly known as the Excess and Surplus Lines Claims Association. President Elect David Zizik attended the IACP Annual Meeting in Orlando on behalf of the ADTA. David has fostered an improved and closer relationship with the IACP and its leadership. The IACP is not a lawyer-

driven organization, but one of claims professionals from around the world. If David calls you and asks for your assistance in speaking or writing for the IACP, please do so. It is good for you, for your firm, for the ADTA, and for the IACP.

Jim Craig of Iowa, Chair of the Marketing Committee, submitted a written report to the EC. The Marketing Committee is collecting nominations for the “We Prefer to Refer” Award. Please send your nominations to [jrcraig@lwclawyers.com](mailto:jrcraig@lwclawyers.com).

The Internet and Technology Committee chaired by Troy Bozarth of Illinois is working with Peggy Schultz, Melissa Bailey and others to develop a blog for the spouses about The Greenbrier meeting activities. Troy and his technologically expert committee are also charged with the task of ensuring that our IT service at The Greenbrier is superior in its function during the meeting.

Michael Aylward of the National Issues Committee has an article in this edition of the Press. Mike is building on the fine work of Tom Hurney who carried this work almost single handedly for years so that we develop a national spectrum of opinion on national issues (Mike’s term) of concern to ADTA members.

Steve Pennell and the Long Range Planning Committee submitted their final written report to the EC at The Greenbrier meeting. The Long Range Plan Report is an excellent set of guidelines for the ADTA Executive Council to use going forward. It is the result of many hours of fine work by Steve and others on that committee.

Hope you had a great holiday season.

Steve Heine  
ADTA President 2012-2013

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## THE ASSOCIATION PRESS

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## INTERNET & TECHNOLOGY COMMITTEE

TROY A. BOZARTH - EDWARDSVILLE, IL



The ADTA Internet and Technology Committee has an exciting and interesting year planned. We started our agenda planning with a simple goal, making technology work better for ADTA members. This goal may be easier said than done because, in the end, it is you the user that derives value from the technology provided through its use. The more technology is used the more value it provides. Therefore, the task ahead seems fairly straight forward -- make the technology we have easier to use and provide new and interesting technology that members will want to use.

With this goal in mind, the ADTA will be stepping boldly into the social media arena. Social media, from Facebook to Twitter, certainly is the rage these days, and the Internet Technology Committee will not let the ADTA be left behind. Social media, in its many forms, allows for interactive involvement of users. The more you use it the more you will get out of it, and ADTA members will have plenty of opportunities to use social media this year.

### Blog, Twitter, Facebook and more

The ADTA has dabbled in social media in the past. There was a blog site specifically for the Boston meeting <http://adtaboston2010.blogspot.com/> and the ADTA LinkedIn group, still in its infancy. These initial steps into social media were a solid beginning, but underutilized. For example, those who visited the Boston annual meeting blog site found an interesting and informative forum that provided abundant information about the annual meeting. Users did not take full advantage of the blog included to provide the interactive discussion among the readers.

The Internet Technology Committee will be supporting annual meeting blogs for both The Greenbrier <http://adtagreenbrier.blogspot.com/> and for Vancouver <http://adtavancouver.blogspot.com/> with great content and items for discussion. These blogs will be both a great source of information about our annual meetings and a great way to stay in contact with your friends at the ADTA.

Twitter is certainly the hot social media platform these days, which allows for short messages (including media content) to be broadcast to a group of "followers". ADTA Twitter accounts will allow real time communication both from the ADTA to members and between members who use the Twitter sites. The Internet Technology Committee plans to use Twitter before and during the annual meeting to provide up-to-the minute updates on activities, events, and more. Members not able to attend will be able to follow from home and participate in the fun (from afar).

The new Twitter sites will allow ADTA members and spouses a fun way to stay in contact before and during

annual meetings. The Internet Technology Committee has set up Twitter accounts for the ADTA generally, for the ADTA spouses and for the annual meeting. All you need to do to begin receiving informative tweets, including commentary and pictures concerning the annual meeting and other important ADTA business, is follow @ADTALaw, @ADTAGreenbrier and @ADTAspouses (@ADTAVancouver is also available).

### Webinar

Does social media have you confused, lost or otherwise overwhelmed? Not to worry. We will all learn together. The Internet Technology Committee plans to have a social media webinar January 17, 2013 for members and spouses to help everyone get up to speed on the new technology offerings by the ADTA. The more we use these tools to inform our members and each other, the more value the ADTA's members will see from the technology.

We look forward to a great year and a bold new adventure in social media.

## 2013 – WHITE SULPHUR SPRINGS, WEST VIRGINIA – ADTA'S 72nd ANNUAL MEETING – April 17-21, 2013

THOMAS J. HURNEY, JR. - CHARLESTON, WV



If you have not made plans to attend the ADTA Annual Meeting to be held at The Greenbrier in White Sulphur Springs, West Virginia, on April 17-21, 2013, stop what you are doing and mark your calendar.

There are a lot of reasons to come to The Greenbrier. It is an award-winning resort which has entertained guests from around the world since 1778. A national historic landmark, The Greenbrier, with its 710 rooms, is one of the finest luxury resorts in the world.

Your ADTA Executive Council has worked hard to make the annual meeting at The Greenbrier a reality. With the expertise of former President Steve Crislip, and our Executive Director, Peggy Schultz, we have negotiated a room rate of \$250.00 per night, which is as good a rate as you will ever find at this incredible resort.

The Greenbrier is not just a first class resort. Nestled in the Appalachian Mountains, The Greenbrier has a rich history, ranging from its use as a military hospital during

both the Civil War and World War II, to its significant role in the Cold War as the location of a top secret United States Government relocation facility for Congress. The facility began with a bipartisan letter from Lyndon Johnson, then majority leader of the Senate, and Sam Raeburn, Speaker of the House of Representatives, to the President of Chesapeake & Ohio Railway introducing the architect of the Capitol who “was calling upon you on matters of vital importance to the Congress of the United States.” What ensued was a major, top-secret reconstruction (code-named “Project Greek Island”) of a massive underground bunker to serve as an emergency shelter for the United States Congress during the Cold War. The ADTA will have an exclusive private tour of the secret Greenbrier facility, publicized in 1992 by the Washington Post.

ADTA Golfers will have the opportunity to play the legendary Old White course which, in 2011, became a TPC course and is the site of the Greenbrier Classic. Golfers can also play at The Greenbrier course, designed by Jack Nicklaus and home to the 1979 Ryder Cup and 1994 Solheim Cup, or the Meadows Course, designed by Dick Wilson and Bob Cup, the most scenic of The Greenbrier courses. So, ADTA Golfers will play on the same links as the legendary Sam Snead and most recently Tiger Woods.

Those ADTA members interested in fine dining will have a wide variety of choices. No one should miss an opportunity to eat in the Greenbrier’s classic Main Dining Room. Other selections include Prime 44, a top-end steak house named after Jerry West (a West Virginia University graduate). Those enjoying Asian cuisine can try out In-Fusion, and there is Italian fare at the Forum. More casual dining is available at Draper’s Café and at Slammin’ Sammies, located in the Golf Club.

The Greenbrier offers a wide array of other activities, including horseback riding, tennis, swimming, spa treatment, and shopping.

ADTA members will dine on Thursday at Kate’s Mountain, a rustic Greenbrier facility which overlooks the Greenbrier Valley. Bring your clogging shoes, as we will have a local bluegrass band for after dinner entertainment.

Friday night, ADTA members will have an exclusive tour of the Bunker, followed by the usual night off. You will have an opportunity to dine at the various Greenbrier restaurants, or take a leisurely trip into Lewisburg, voted in 2011 as America’s coolest small town. Lewisburg has restaurants ranging from fine cuisine to wood-fired pizza, beer and salad. Lewisburg is filled with small shops that sell clothing, jewelry, art work and outdoor gear. Lewisburg is also home to a very fine Irish pub.

For those who want more than a leisurely trip, Yeulin Willett, from Grand Junction, Colorado, has volunteered to put together a mountain biking trip either Friday or Saturday afternoon. All are welcome!

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## ADTA – VANCOUVER ANNUAL MEETING – 2014

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LEON BEUKMAN - VANCOUVER, CANADA

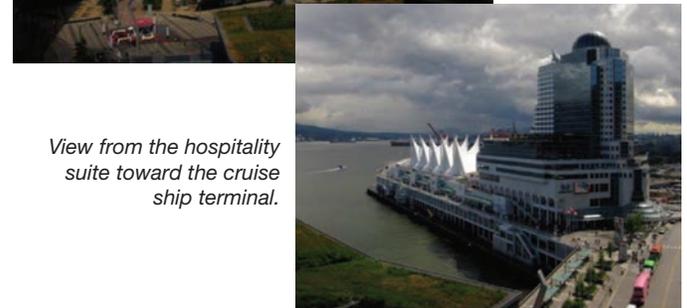
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With unobstructed views of the harbour and mountains, the Fairmont Pacific Rim in Vancouver is a newcomer to an area rich in history and intrigue. Located in the heart of the historic port and financial district, the hotel fronts one of Vancouver’s most celebrated streetscapes with unobstructed views of the North Shore Mountains, Stanley Park and Coal Harbour. Sophisticated and cosmopolitan but casual and contemporary, the hotel combines the best of Asia and the west coast in its plan, décor, and culinary offerings. A downtown oasis designed with five star standards and amenities, the 377-room luxury hotel features lavish appointments, naturally inspired materials, comfortable furnishings and state-of-the-art technology.

We look forward to welcoming you to our beautiful and vibrant city for the ADTA 73<sup>rd</sup> Annual Meeting in Vancouver, British Columbia, April 22 – 26, 2014.



*View from the hotel toward the North Shore mountains.*



*View from the hospitality suite toward the cruise ship terminal.*

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## MEMBERSHIP REPORT

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WILLIAM H. STAPLES - WALNUT CREEK, CA

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**GET ONE FREE!** Yes, nominate a new Associate Member and that member’s dues are free for the first year, through March 31, 2014. Offer ends February 28, 2013. (Legal disclosures, rules and requirements apply and will be provided upon request.)

Is this a joke? No, it is a serious attempt to ensure all Prime Members have an Associate Member in their firm to carry on the ADTA traditions. Let’s face it, I’ve said it before and each time I say it, it becomes more appropriate. We are all getting older and must plan for ADTA’s future and the future of each of our firms in ADTA. We have approximately 400+ Prime Members but

only 140+ Associate Members. So what happens when all of you Prime Members without an Associate retire? Membership in ADTA is prestigious, not only for you but also for your firm. Don't chance losing it.

Look around your firm. You can't be the only good defense trial attorney there. Ok, in your own mind you are, but you have to admit there are others that are decent. Give one or two of them applications. You can find them on our website, ADTAlaw.com, under the heading "Become A Member," or you can call or write our Executive Director, any Regional, State/Province Chair or me. Encourage them to join and attend our next annual meeting at The Greenbrier, a National Historical Monument and absolutely incredible world class resort surrounded by the Allegheny Mountains in West Virginia.

Do your partners know what ADTA is all about? Or do they simply know that you go to a great location once in a while and they pay the bill. When you can't attend a meeting, don't you think it would be a good idea to have one of your partners there? Let them get to know great defense trial attorneys from all over the country, Canada and Puerto Rico. Let them experience ADTA!

There is more to experience in ADTA than just our annual meetings. We have webinars for our member firms' younger attorneys; we interact with our sister defense organizations for political clout in the civil justice system; and we have an incredible referral network. There is also a benefit that apparently only 39 of us know about. We have an ADTA "group" on LinkedIn. It is members only, and available for discussions, posting, inquiries, etc. Join and have an easy and fast way to ask questions, find experts or simply have discussions with other members about topics of interest.

You know I can't conclude an article without asking everyone to assist in the never ending quest for NEW Prime Members in cities and towns where we have none. You are the ones best suited to recruit defense trial attorneys in your area. Please help your State and Province Chairs in identifying and recruiting new members.

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## NEW MEMBERS

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**Bradley J. Beehler**  
Morley Law Firm, Ltd.  
Grand Forks, North Dakota

Bradley J. Beehler practices with Morley Law Firm, Ltd. in Grand Forks, North Dakota. Bradley graduated from the University of North Dakota School of Law in 1995. Brad's wife, Carla, is an Interviewer III, with the Job Service

of North Dakota. Carla and Brad have three children, Joshua (23), Jonathan (21) and Courtney (13). Brad con-

centrates his practice primarily in the area of insurance defense litigation including civil trial practice, products liability law, negligence law, insurance law, and commercial litigation in state and federal courts in North Dakota and Minnesota. Brad has a Martindale-Hubbell® "AV" Preeminent rating as lawyer at the highest level of professional excellence, is a Board Certified Trial Specialist by the National Board of Trial Advocacy and the Minnesota State Bar Association, and has been designated as a Great Plains Super Lawyer® 2009, 2010, 2011 and 2012 in Personal Injury Defense by *Minnesota Law & Politics*. Brad is involved with the North Dakota Defense Lawyers Association (President 2005); Minnesota Defense Lawyers Association; Defense Research Institute (Exceptional Performance Citation – North Dakota 2005-06); International Association of Defense Counsel; and the Claims & Litigation Management Alliance. Brad is also a North Dakota Special Assistant Attorney General for Workforce Safety and Insurance, and sits on the Board of the Red River Valley Gymnastics Club, the University of North Dakota Letterwinner Association, and the National Association of Legal Assistants Certification Board and Advanced Paralegal Certification Board. Brad is also a former foster parent. In his spare time, Brad enjoys golf, motorcycle riding, attending University of North Dakota sporting events and simulator golf.



**Trevor Cofer**  
Dewhirst & Dolven, LLC  
Colorado Springs, Colorado

Trevor Cofer practices with Dewhirst & Dolven, LLC in Colorado Springs, Colorado. Trevor attended Stetson University College of Law. Trevor's wife, Jennifer, is a stay at home mom and teacher. Jennifer and Trevor have four children,

Makenna (13), Madison (10), Maya (6), and Maliyah (4). Trevor concentrates his practice in construction and professional liability law. Trevor is a fellow of the Colorado Bar Foundation, and is the co-chair for the Southern Chapter of the Colorado Defense Lawyer's Association. Trevor enjoys triathlons, music, skiing and golf.



**Thomas E. Ganucheau**  
Beck, Redden & Secret, LLP  
Houston, Texas

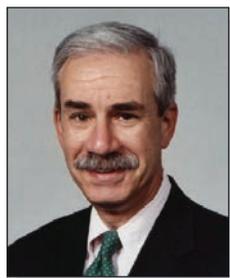
Thomas E. Ganucheau practices with Beck, Redden & Secret, LLP in Houston, Texas. Tom attended law school at Loyola University, New Orleans and obtained his J.D. in 1991. Tom's wife, Lisa Meloncon Ganucheau, is a homemaker/volunteer. Tom and Lisa have two children, Mary Clare (16) and John (15). Tom practices in the areas of complex commercial and business litigation, civil litigation, employment litigation, professional malpractice, energy/

oil and gas litigation. Tom has been named a Texas Super Lawyer (2012) and in Best Lawyers in America (2012). Tom is very involved in the Texas Association of Defense Counsel and has held the following positions: President (2011-12); President-Elect (2010-11); Executive Vice President (2009-10); Secretary-Treasurer (2007-09); Assistant Secretary-Treasurer (2005-07); Vice President of Membership & Administration (2002-05); and Board of Directors (2001-present). In his free time, Tom enjoys fishing, golf, wine, sporting events and children's sporting activities.



**Michael W. Gill**  
Hale, Skemp, Hanson,  
Skemp & Sleik  
LaCrosse, Wisconsin

Michael W. Gill practices with Hale, Skemp, Hanson, Skemp & Sleik in LaCrosse, Wisconsin. Michael obtained his J.D. from the University of Minnesota Law School in 1982. Michael's wife, Annette, is a Learning Media Center Director. Michael and Annette have two children, Benjamin (28) and Caitlin (24). Michael concentrates his practice in the defense of tort litigation, including professional negligence and products liability, and he also is involved in bad faith and coverage litigation. Michael was voted a Top Attorney in Wisconsin 2012 for civil litigation defense, and was named a Super Lawyer from 2005-2011. Michael is the President of the Wisconsin Defense Counsel 2011-2012. In his spare time, Michael enjoys golf, fishing, travel and spectator sports.



**Edward M. Kaplan**  
Sulloway & Hollis, PLLC  
Concord, New Hampshire

Edward M. Kaplan practices with Sulloway & Hollis, PLLC, in Concord, New Hampshire. Ed obtained his J.D. from the University of Kansas in 1973. Ed is married to Maddy, an educator, and they have two adult children, Elizabeth and

Adam, as well as three grandchildren, Lauren (2 1/2) and Eli and Carter (nine-month old twins!) Ed concentrates his practice in all areas of labor and employment defense, trade secret and competition issues before all state and federal agencies and in the courts, as well as product liability defense for tobacco, drug, automotive and related manufactured equipment. Ed is a member of the Federation of Defense and Corporate Counsel, a Fellow of the College of Labor and Employment Lawyers, a Fellow of the International Society of Barristers, and has been named in Best Lawyers of America in Labor, Employment and Personal Injury Defense, as well as a Super Lawyer in Labor and Employment. Ed is the current President of the Federation of Defense and Corporate Counsel and sits on the Board of Directors of the Defense Research Institute

and Lawyers for Civil Justice. In his spare time, Ed enjoys golf, skiing, hiking, and reading.



**Gary F. Karnedy**  
Primmer Piper Eggleston  
& Cramer, PC  
Burlington, Vermont

Gary F. Karnedy practices with Primmer Piper Eggleston & Cramer, PC in Burlington, Vermont. Gary attended Boston College Law School and obtained his J.D. in 1992. Gary's wife, Tonia, is an engineer. Gary and Tonia have three children, Frankie (12), Anna (10), and George (8). Gary concentrates his practice in the areas of commercial and regulatory litigation, as well as employment law. Gary is a member of the Vermont Labor Relations Board, Vice President of the Chittenden County Bar Association and Associate Counsel for the U.S. House of Representatives Sub-Committee on Select Education and Civil Rights, 1994. Gary enjoys both golfing and hunting in his free time.



**Patrick J. Kearns**  
Wilson, Elser, Moskowitz,  
Edelman & Dicker, LLP  
San Diego, California

Patrick J. Kearns practices with Wilson, Elser, Moskowitz, Edelman & Dicker, LLP in San Diego, California. Patrick attended Thomas Jefferson School of Law and obtained his J.D. in 2005. Patrick is married to Julie Kearns, an attorney also. Patrick practices primarily in the areas of Professional Liability Defense (Medical, Dental, Legal), Business Defense, and General Liability Defense. Patrick was named a San Diego Daily Transcript "Top Young Attorney" in 2007, and a San Diego Defense Lawyers Association "Outstanding New Lawyer" in 2008. Patrick is currently the Vice-Chair of DRI's 2013 Medical Liability and Health Care Law Seminar. Patrick enjoys reading, travelling and playing his guitar in his free time.



**Eric M. Knoernschild**  
Stanley, Lande & Hunter  
Muscatine, Iowa

Eric M. Knoernschild practices with Stanley, Lande & Hunter, P.C. in Muscatine, Iowa. Eric attended college at Iowa State University graduating in 1970. He then attended the University of Iowa College of Law and obtained his J.D. in 1973. Eric's wife, Beverly, is a retired community college teacher. Eric and Beverly have two children, Andrew (41) and Nathan (34) and are proud grandparents to Zoe (12), Finn (5) and Isaac (2 1/2). Eric concentrates his practice in the areas of insurance defense, business, and general family law. In his free time, Eric enjoys golf and fishing.



**Robert D. Lang**  
D'Amato & Lynch, LLP  
New York, New York

Robert D. ("Bob") Lang is with the firm of D'Amato & Lynch, LLP, in New York, New York. Bob attended Cornell Law School, where he obtained his J.D. in 1973. Bob is married to Maxyne, a music publisher. Bob and Maxyne have a son, Jordan (31). Bob concentrates his practice in the areas of personal injury and products liability suits, some with catastrophic injuries; construction disputes of every grade and order; representing attorneys, accountants, psychologists and other professionals; and handling and resolving partnership and shareholder controversies. Bob is the Chairman of D'Amato & Lynch's Casualty Practice Group, and is the "bet the farm" attorney in New York for a number of significant clients, including the leading home improvement retailer in the U.S., and a prominent New York City construction manager. For almost 40 years, Bob has been litigating in the state and federal courts of New York, and handling complex AAA and ICC arbitrations, both in New York and abroad. A lawyer who "runs to the sound of gun fire," Bob steps up and tries the tough cases, often in difficult venues. Early on in his career, he recognized the economics of law with the costs of litigation impacting clients and, as an active ADR proponent, skillfully navigates matters to successful settlement where others cannot. A leader in national and local bar associations, chairing committees and leading discussions with his peers, his articles are frequently published in law reviews and bar journals throughout the country. Bob is AV Preeminent® Peer Review Rated™, and a Phi Beta Kappa member. In his free time Bob enjoys tennis and golf.



**Raymond Lyons, Jr.**  
Lipe Lyons Murphy Nahrstadt  
& Pontikis, Ltd.  
Chicago, Illinois

Raymond Lyons, Jr. practices with Lipe Lyons Murphy Nahrstadt & Pontikis, Ltd. in Chicago, Illinois. Ray attended law school at DePaul University, and obtained his J.D. with honors, in 1980. Ray's wife, Diane, is a high school Spanish teacher. Ray and Diane have four children, Ray (31), Nick (30), Chris (27) and Scott (19). Ray concentrates his practice in the areas of product liability, construction, transportation and tort defense. Ray is AV rated by Martindale-Hubbell, and has been named an Illinois Leading Lawyer for personal injury defense, general and transportation defense. In his spare time, Ray enjoys travel, golf, baseball trivia and is a MLB sports enthusiast.



**Patrick J. Maggio**  
Dewhirst & Dolven, LLC  
Colorado Springs, Colorado

Patrick Maggio practices with Dewhirst & Dolven, LLC in Colorado Springs, Colorado. Patrick attended Drake University for law school. Patrick's wife, Cid, is a school administrator. Patrick and Cid have two children, Seery and Cass. Patrick focuses his practice on transactional law, contract law, construction law, and business law.



**Katherine R. Moore**  
Law Office of Katherine  
R. Moore, P.C.  
Redwood City, California

Katherine R. Moore practices as the Law Office of Katherine R. Moore, P.C. in Redwood City, California. Katherine attended Santa Clara University School of Law and obtained her J.D. in 1998. Katherine's husband, Russell, is a retired attorney as well. Katherine and Russell have two step children Russell L. Moore, III, (36) and Sean M. Moore (32). Katherine concentrates her practice in general negligence, premises liability, civil litigation, personal injury and motor vehicle defense. Katherine graduated Summa Cum Laude from Loyola University of Chicago in 1991. Katherine is also on the Board of the Association of Defense Counsel of Northern California (2004-2008). In her free time, Katherine enjoys cooking, gardening, running, and playing with her menagerie of pets: a golden retriever (Bentley), a miniature Chihuahua (Valentino) and two cats (19 year old Susie and 7 year old Kitty).



**Mary Massaron Ross**  
Plunkett Cooney, P.C.  
Bloomfield Hills, Michigan

Mary Massaron Ross is with the firm of Plunkett Cooney, P.C. in Bloomfield Hills, Michigan. Mary attended Wayne State University Law School and graduated Summa Cum Laude in 1990. Mary's husband, Larry, is a retired software developer. Mary and Larry have four children, Mary Curby (and husband, Tim), David, John Ross (stepson) and Andrea (stepdaughter). They have a number of grandchildren as well, Benjamin (7), Katherine (4), Peter (18 months), Ian (7), Evan (5) and Alex (14 months). Mary concentrates her practice in Appellate Law. Mary has received a number of honors and awards including: The Best Lawyers in America® for Appellate Law, 2008-2013; Michigan Super Lawyers, Appellate Law Practitioner, Top 100 Lawyers Statewide, Top 50 Female Attorneys in Mich-

igan, 2006-2012; Benchmark Appellate Litigation Star, 2013; Top Lawyer, *dbusiness Magazine*, 2012; Leader in the Law, *Michigan Lawyers Weekly*, 2009; Cooley Law Review Distinguished Brief Award for brief authored in *Gilbert v DaimlerChrysler*, 2005; Marygrove College Distinguished Service Award, 2004; Michigan Municipal League Distinguished Achievement Award, 2003; Lawyer of the Year, *Michigan Lawyers Weekly*, 2002; and Martindale-Hubbell's highest rating-AV Preeminent™ Peer Review Rated. To add to her many accolades, Mary is the current President of the Defense Research Institute (DRI). In her spare time, Mary enjoys reading, sailing, travel, and spending time with her grandchildren.



**L. Andrew Watson**  
Butler Pappas Weihmuller  
Katz Craig, LLP  
Charlotte, North Carolina

L. Andrew Watson (“Andy”) practices with the firm of Butler Pappas Weihmuller Katz Craig, LLP in Charlotte, North Carolina. Andy attended the University of Florida College of Law and obtained his

J.D. in 1994. Prior to law school, Andy attended the University of Pennsylvania and the Wharton School of Business. Andy’s wife, Estrella, is a Satellite Coordinator for NES Communications. Andy and Estrella have two children, Owen (8) and Melanie (5). Andy concentrates his practice in First Party Coverage (theft, fire, windstorm, etc.), Bad Faith, Third Party Coverage, as well as Liability Defense and Construction Defects. Andy is AV rated by Martindale-Hubbell. In his free time, Andy enjoys spending time with his family, and is an avid Florida Gators sports fan, as well as an avid fantasy football and baseball player. Andy, who was born in Jericho, New York, is also presently licensed to practice in North Carolina, South Carolina, Florida and Georgia, and practiced law in both Atlanta (1994-2000) and Miami (2000-2009) before moving to Charlotte in 2010.



**Mark Wiedenfeld**  
Wiedenfeld & McLaughlin, L.L.P.  
Des Moines, Iowa

Mark Wiedenfeld practices with Wiedenfeld & McLaughlin, L.L.P. in Des Moines, Iowa. Mark graduated from the University of Iowa with a J.D. in 1978. Mark’s wife, Ann, is a human resource director at a bank. Mark and Ann have two

children, Grant (33) and Laura (26). Mark concentrates his practice in insurance defense, including various casualty insurance clients and claims, such as automobile, general casualty, and liquor liability (mostly personal injury cases, auto accidents, dramshop claims, dog bites,

slip and falls, bar fights, etc.) Mark graduated from law school “with high distinction.” Mark is also an elected fellow in the Iowa Academy of Trial Lawyers. Mark has served on the Iowa State Bar Association Board of Governors, on the Polk County Bar Association Board of Directors, and on various committees of those organizations. Mark is involved with the Iowa Defense Counsel Association, and is a member of DRI. Mark enjoys, in his free time, bicycling, golf, hunting and being involved in the United States Practical Shooting Association. Mark has a bachelor’s degree in chemistry. Prior to attending law school, Mark worked as the supervisor of a quality control laboratory in a feed company.



**Eric M. Wilkins**  
Hunt Suedhoff Kalamaros, LLP  
Fort Wayne, Indiana

Eric M. Wilkins practices with Hunt Suedhoff Kalamaros, LLP in Fort Wayne, Indiana. Eric attended the University of Dayton School of Law and obtained his J.D. in 2005. Eric’s wife, Alicia, is a Human Resources Manager. Eric and Alicia

have two children, Graysen (5) and Calla (3). Eric concentrates his practice in insurance defense, labor and employment, and civil rights law. Eric was named to the 2012 Indiana Super Lawyer’s Rising Star List. In his free time, Eric coaches youth football and participates in Triathlons.



**Pope S. Yamada**  
Phelan Tucker Mullen Walker  
Tucker & Gelman, LLP  
Iowa City, Iowa

Pope S. Yamada practices with the law firm of Phelan Tucker Mullen Walker Tucker & Gelman, LLP in Iowa City, Iowa. Pope graduated from the University of Iowa College of Law, earning his J.D. in 2003.

Pope’s wife, Darcie, is a therapist. Pope and Darcie have two children, Kirin (5) and Raiden (5 months). Pope concentrates his practice in the area of medical malpractice defense. Pope received his B.A. with Honors from Wesleyan University in Connecticut, and as a Student Writer, was chosen for publication in the *Journal of Transnational Law*. He was also a Van Oosterhout Moot Court Advocate, selected out of 200 plus students. Pope is a member of both the Iowa Defense Counsel Association, and Defense Research Institute. Pope enjoys illustrating political cartoons in his free time.

## NATIONAL ISSUES REPORT

MICHAEL F. AYLWARD - BOSTON, MA

The National Issues Committee is tasked with monitoring legal and legislative trends around the country so that we can identify developments of interest to our members and share information about new opinions, pending appeals and proposed legislation that affects the practice of law in our respective jurisdictions. With this issue of the *Association Press*, we inaugurate a new feature, in which we survey major pending appeals that are due to be decided in the next few months. If you are involved in such a case or are aware of a major appeal that ADTA members should be aware of, please call it my attention (maylward@morrisonmahoney.com).

### Consumer Protection Statutes/Trial by Jury

We start (selfishly) with a case that I am going to argue in a few weeks to the Supreme Judicial Court of Massachusetts but which has drawn the attention and amicus support of defense lawyers nationwide. At issue in *Klaimont v. Gainsboro Restaurant*, SJC11154 is whether a judge violated the defendant's constitutional rights when, after a jury acquitted a restaurant of responsibility for the wrongful death of a college student who suffered a fatal fall down an unmarked stairway, she awarded \$6 million in trebled damages for claimed consumer protection act violations. Under Massachusetts law, there is no right to a trial by jury for consumer protection act claims ("93A actions"). The issue on which the SJC has granted direct appellate review, however, is whether the defendants' jury trial rights with respect to the other counts in the complaint (negligence, wrongful death, etc.) were violated in that the judge's 93A award reflected a finding of causality between the plaintiff's death and building code violations when the jury had expressly found that there was no causation. The court will also consider whether the Massachusetts wrongful death statute (G.L. c.229 §2) is the sole vehicle for pursuing wrongful death claims or whether, as here, an estate may seek wrongful death damages in the guise of a consumer protection claim.

### Class Action Claims

In the wake of *Wal-Mart v. Dukes*, the U.S. Supreme Court has again taken up various issues concerning class action claims. On November 5, 2012, the Court heard oral argument in *Comcast v. Behrend*. At issue is the amount of scrutiny a judge should give to expert testimony at the class certification stage. The Court also granted an insurer's certiorari petition in *The Standard Fire Insurance Co. v. Knowles*, on the issue of whether purported class representatives can "stipulate" that they will not seek more than \$5 million on behalf of the class (even if class members may otherwise be entitled to recover more money) in order to avoid the "amount in controversy" requirement under the Class Action Fairness Act and thereby avoid removal to federal court.

### Expert Challenges

The scope of judicial scrutiny required under *Daubert* and *Kumho Tire* are the subject of a Georgia case now pending in the Eleventh Circuit. In *Sands v. Kawasaki Motors*, No. 12-14677, the Court of Appeals will consider a product manufacturer's claim that the trial judge neglected to carry out his "gatekeeping" function when he allowed the plaintiff's expert to express conclusory opinions lacking any foundation except the expert's say-so, put the burden of challenging the expert's reliability on the defendant, and treated the right of cross examination as a proxy for the judge's own gatekeeping role.

### Damages/Medical Bills

The Ohio Supreme Court is now considering a defendant's appeal of an intermediate appellate court's ruling that it was proper to exclude evidence of medical bill write-downs unless the defense presents expert medical testimony concerning the reasonableness of the charges. Prior to the Court of Appeals' decision earlier this year in *Moretz v. Muakkassa*, defendants routinely argued to juries that the reasonable amount of bills were only that amount that the health insurer had ultimately paid, not the full amount billed.

### Medical Records

There is also a very interesting case now pending in the West Virginia Supreme Court in which an auto insurer has challenged a trial court order limiting its right to access and the use of medical records of plaintiffs in personal injury cases, and requiring the return or destruction of such records afterwards. In *Nationwide Ins. Co. v. Faris*, No. 12-0210, Nationwide argues that the growing use of "Medical Protective Orders" concerning personal information conflicts with its ability to investigate and respond to claims and is wholly unnecessary in light of existing rules and statutes regulating insurers and otherwise protected personal, financial, and medical information. The case asks the West Virginia Supreme Court to declare that a claimant must show "good cause" for a medical protective order that requires destruction of medical records following litigation only by substantiating specific privacy concerns and by demonstrating that protections already provided by state and federal law, as well as the insurer's internal safeguards, are insufficient to address those concerns.

That's all for now. If you are aware of other noteworthy appeals, please let us know.

Send any ADTA related photographs to  
Editor Linda Hay at [lhay@illinois-law.com](mailto:lhay@illinois-law.com).

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## A WORD FROM LOU

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LOU SCOFIELD - BEAUMONT, TX

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Now that we are all successful, smart, and reasonably well respected in most circles (by everyone except for the general public, journalists, our children, and our family pets), I want us to consider one of the rungs on the ladder that got us all here: our negotiating skills. Like the subject of “closing argument” I have avoided writing to you on this topic for almost twelve years.

Why the delay? Because it is a tough topic. First, you all already think you know how to do it best...your way. Second, it is about as easy a subject to make funny as to get you chuckling at a riff of heart disease jokes. Even so, here goes.

Children do it naturally, which suggests negotiating is in our DNA...built-in to our biological hard drives. Stories here are endless. Like Tommy who proudly showed his mother the turtle he received in trade from Billy in exchange for Tommy’s bicycle (Billy later became a successful Plaintiff’s lawyer, Tommy a mortgage derivatives trader).

They do it in every culture: negotiating for a rug in Istanbul; trinkets in Cairo; Euros in London; or explosives in Pakistan. The last example reminds me that some negotiating relates to illegal activities. Years ago a partner of mine was the victim of an extortion attempt. The crook called him and threatened to kill my partner’s wife if he did not come up with \$100,000. My partner negotiated him down to a much more sensible \$20,000, and, with the help of the FBI, made the drop and caught the crook who now lives in prison. True story. Of course, when it was all over, we chided our partner since he might have gotten the crook down to \$17,500 or maybe even \$17,250. Had he lived up to his reputation for pinching every penny, he should have negotiated down the payoff *and* the threat. Maybe get the guy down to threatening to give her a paper cut if not paid \$20 and a Subway tuna salad. A little more effort and maybe the crook would have been guilty of only a misdemeanor? Missed opportunity.

But I digress, and the example of my partner brings me to a point. Natural or not, negotiation is a skill and some are better at it than others. Importantly, being a skill, and not just a talent, it can be taught. Yet, though it is fundamental to all we do as lawyers, we don’t routinely see it taught in Law School. I think it would have been nice, and my life would have been made easier, if I had been taught some negotiating rules. Regardless, I will now extend to you the favor that was denied me.

Let’s focus on one type of negotiation, attempting to settle a lawsuit. Regardless of your level of skill and the tricks of the trade that work for you, here are a few basic rules:

**First Rule:** Never lie in negotiations. Your credibility is everything, and if you get caught lying, you are lost. Now that doesn’t mean you should “show your hole cards,” because the second rule is to “never disclose your hole cards.” It does mean, however, to choose your words wisely. For example, if opposing counsel is so rude that he asks you if your last offer is all of your settlement authority, answer honestly that it is “every penny I am in a position to offer.”

**Second Rule:** Never disclose your hole cards. This means the other side must always be kept guessing, not only about your ultimate settlement authority, but also about what you know of the case, and his client(s). Not disclosing what you don’t know always strengthens your hand. Almost every case has a secret or two that one side does not want disclosed to the other. If you act like you know “something,” the other side will worry that you do know it...even though you don’t. So keep your ignorance to yourself.

**Third Rule (a corollary to the Second Rule):** At the beginning of negotiations never offer your “top dollar” or demand your “bottom dollar,” no matter how sincerely the other side asks for it “to save time, and cut to the chase.” Whatever figure you present, they won’t believe it is not negotiable and you will end up taking up the whole day convincing them it really is your “top” or “bottom.” Trust me, I stupidly did it once. It was the morning of the third day of trial. The second day had gone very well for us. Our opponents asked for our “non-negotiable bottom line to settle.” We gave it to them. Eight hours later (yep it took 8 hours to convince them), we settled for that figure. So don’t do it. No matter how tempting. Besides no one knows what “cut to the chase” literally means anyway. Maybe it means what happened to me.

**Fourth Rule (a corollary to the Third Rule):** Be patient. Every negotiation has a necessary gestation period that cannot be rushed. If you rush, you risk paying too much or getting too little. Being short fat and slow I don’t know much about tennis. But as an observer it seems that the players that do best, work from back at the base line with long shots between them before anyone rushes up to the net, and even then they usually rush it only when the other player is in some way out of position. Same thing for negotiating. Stay back at the base line a while, lobbing offers and receiving demands, until you get the feel for the rally and know what is going on. Remember, you are not going settle if you do not want to, and if you do desire settlement, you are not going to pay more, or accept less, than you ultimately choose. So allowing time to let the settlement develop costs you nothing.

**Fifth Rule:** Never look back on a deal. With any settlement you will wonder if you could have paid less or gotten more. Don’t do that. You didn’t pay less or get more, so such thoughts are a waste of time, and unhealthy. To avoid this natural tendency to second-guess yourself, you might use a bit of sarcasm. If asked how the settlement discussions went, say: “It was easy. I just started stuffing great wads of cash down the plaintiff’s parched little throat until he cried out ‘No mas!’ Yep I beat him

with Benjamins.” Setting aside the fact that, “...stuffing great wads of cash..” is a remarkably effective way to successfully settle a lawsuit, when used as sarcasm and not as a negotiating strategy, saying it will help you get past second-guessing a result.

Let’s stop here. There is much more to the subject. I’m sure there are whole books written on it. I’ve never read one though. Their price is not negotiable.

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## ABOUT OUR MEMBERS

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James H. “Blackie” Holmes, III, a partner with the firm of Burford & Ryburn, L.L.P., received the 2012 Distinguished Alumni Award. The Distinguished Alumni Award is the highest and most prestigious award Southern Methodist University (SMU) can bestow upon its alumni. Mr. Holmes received his B.B.A. from SMU in 1957 and his law degree (L.L.B.) from SMU in 1959.

Lederer Weston Craig has opened an office in Des Moines, Iowa’s capital, and headquarters of the United States District Court for the Southern District of Iowa. The firm has always represented clients throughout the state, but the Des Moines office enhances the firm’s ability to service Iowa clients, irrespective of the venue. Greg Lederer and Ben Weston are residents in Des Moines. The firm continues to maintain its office in Cedar Rapids, headquarters of the United States District Court for the Northern District of Iowa. Go to [www.LWCLawyers.com](http://www.LWCLawyers.com) for further information.

Mike Weston, also of the firm of Lederer, Weston, Craig, PLC of Cedar Rapids, Iowa, serves as the President-Elect of DRI until October, 2013 when he will become President. DRI, the Voice of the Defense Bar, is the world’s largest defense organization with over 22,000 members in the United States, Puerto Rico, Canada and Europe. Mike looks forward to his new position and also looks forward to seeing everyone at The Greenbrier.

Five lawyers from Marks Gray were recently selected by their peers for inclusion in The Best Lawyers in America® 2013. Among them are ADTA members Edward L. Birk, who specializes in Employment Law, and Gerald W. Weedon, who specializes in Commercial Litigation, Product Liability and Real Estate Law. *Best Lawyers* is based on an exhaustive peer-review survey in which more than 36,000 leading attorneys cast almost 4.4 million votes on the legal abilities of other lawyers in their practice areas, and because lawyers are not required or allowed to pay a fee to be listed, inclusion in *Best Lawyers* is considered a singular honor.

Anne M. Oldenburg, a partner with the firm of Alholm, Monahan, Klauke, Hay & Oldenburg, in Chicago (and Tammera E. Banasek, an associate attorney), were awarded the “Outstanding Defense Verdict – Dental Malpractice” award at the 2012 Illinois Jury Verdict Reporter “Trial Lawyers Excellence Awards” that took place at the InterContinental Chicago Hotel on October

17<sup>th</sup>. The award was a result of a not guilty verdict in a failure to diagnose oral cancer case in which Plaintiff asked for \$18 million at trial. Of note is that the Plaintiff was a former political correspondent, Georgie Ann Geyer, and that the jury deliberated only a few hours.

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## MARKETING – WE PREFER TO REFER

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JAMES CRAIG - CEDAR RAPIDS, IA

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We are again approaching the time when we will solicit nominations for our We Prefer to Refer award. There are few things the ADTA does that are more important than assisting its members to be more successful. By referring cases to other lawyers in the ADTA, we know our clients are getting the best representation they can get in other jurisdictions where they may not be as familiar with the legal talent available.

Therefore, if your client has a case in a distant jurisdiction or simply needs advice, look in our directory and refer them to one of your friends in the ADTA. If you make or receive a referral, keep track so that you can complete a nomination form in the We Prefer to Refer award process. Report forms are available on our website. By doing so, you help to foster a custom and practice of helping members in the ADTA be successful while helping your client obtain the best legal representation available.

In the coming months the Marketing Committee will consider tools and techniques we can utilize to help increase the visibility of the ADTA. The quality of our organization depends upon populating ourselves with good quality defense lawyers. This is not easy to do for a small organization working on a national scale. If you have ideas to increase the visibility of the ADTA as an organization, please forward them to me so that our committee can explore and expand upon them. With the holiday season here, on behalf of the members of the Marketing Committee, we wish you all the best the season brings.

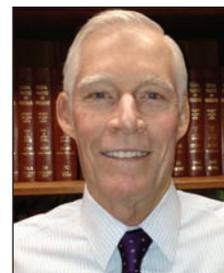
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## WHAT’S NEW IN MY STATE

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ROBERT N. WEBNER - COLUMBUS, OH

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**Arthur Roeca**  
Honolulu, Hawaii

Arthur Roeca, of Roeca Luria Hiraoka LLP in Honolulu, can trace his litigation practice in Hawaii to a challenge of sorts issued by a potential colleague in California.

In 1975, Arthur was preparing to join a Los Angeles firm when he attended a firm cocktail party and mentioned to an associate that he was leaving the next day for a vacation in Hawaii. The associate said, confidently, that it would be impossible for Arthur, who was neither a Hawaiian native nor a graduate of an Ivy League school, to get a job in Hawaii. Intrigued, Arthur decided to test that hypothesis. He checked Martindale-Hubbell, sent out letters to Hawaiian firms, received three job offers -- and decided not to return to the mainland.

Since 1975, Arthur has focused on medical malpractice defense, which has made him one of the busiest trial lawyers on the islands. In Hawaii, medical malpractice cases are among the very few civil cases that are tried. Because most insurance policies give the doctor the ultimate decision on whether to settle a claim, and because doctors are mindful of reputational and reporting issues that arise if they are not exonerated by a trial, medical malpractice cases are tried with much greater frequency than other cases. Arthur's significant trial experience in those cases, in turn, has resulted in his retention in non-malpractice actions where defendants are looking for lawyers with hands-on trial experience.

In Hawaii, as in other states, civil jury trials are a rarity. In 2011, there were fewer than 20 civil trials in the entire state. Alternative dispute resolution processes such as mediation and arbitration are virtually mandatory, and insurers often prefer to use those methods to resolve cases rather than via the time and expense of jury trials. Another *de facto* obstacle to civil jury trials is the lack of funding for the judiciary. Hawaiian state court judges work long hours and juggle criminal and civil dockets with domestic relations obligations, which means that any civil trials will be regularly interrupted by arraignments, custody hearings, and similar matters. These pressures also cause judges to leave the bench as soon as they can take early retirement -- and become private mediators instead.

Arthur enjoys practicing law in Hawaii, and not just because of the weather. The small size of the Hawaiian legal community means lawyers know they will encounter opposing counsel again in the future, a reality that discourages sharp practices and hyper-aggressive tactics and this makes the practice of law in Hawaii a less stressful, and more professional, experience.

Arthur was one of the presenters at the recent ADTA annual meeting in Maui (editor's note: and gave a great and entertaining presentation!) and joined the organization that same year. Arthur currently serves as the ADTA state chair for Hawaii.



**Richard Traub**  
Red Bank, New Jersey

Richard Traub has spent much of his professional career as a full service insurance lawyer dealing too often with natural disasters and resulting catastrophic losses. Thanks to Hurricane Sandy's recent pounding of New Jersey, he now has some first-hand personal

experience with those matters.

Richard lives directly on the New Jersey coastline in a house that -- fortunately -- is located 17 feet above sea level. When Sandy came ashore, his house survived with minimal damage, but homes located on barrier islands immediately to the north and south were devastated. Hurricane Sandy was a huge storm, more than 1000 miles across, that combined elements of a hurricane, a nor'easter, and a winter storm. It also came ashore at high tide, under a full moon. As a result of this unique combination of circumstances, Sandy's enormous storm surge overtopped a sea wall that had never before been breached and caused massive flooding in Richard's neighborhood. His area was without power for 8 days.

The storm had a silver lining, however. Richard's firm, Traub Lieberman Straus & Shrewsbury LLP with an office in Red Bank, New Jersey, is located in a building that had generator power, and he was able to help his fellow New Jerseyans with office space and electricity. The local community pulled together to aid local residents, and Richard also notes that the ADTA, and its member lawyers, were incredibly generous in offering assistance to people in the affected region. Richard wants to thank everyone who offered their help and to let them know that it was a wonderful feeling to know that friends were available to provide support if needed.

For Richard, Hurricane Sandy also has had a professional impact. Richard's firm has been retained by two insurance carriers to handle claims and analyze what damage is covered. Because of the storm, New Jersey courts will begin to wrestle with the unsettled question, under New Jersey law, of whether a storm surge constitutes wind damage, which is covered under most policies, or flood damage, which typically is excluded. In some states, like Louisiana, the question is resolved by trying to determine what the principal cause of the loss was. In New Jersey, where the law is not well developed, the rule seems to be that if damage can be attributed, in part, to a covered event, it will be covered by the policy. Richard believes that the litigation resulting from the storm will clarify New Jersey law on that central issue. New Jersey's insurance commissioner also has ordered all carriers to waive the hurricane deductible in their policies, which will avoid the need for carriers and insureds to determine whether Sandy was technically a hurricane, as opposed to having been downgraded to a tropical storm, when it made landfall.

Richard has published extensively and is active in a number of professional organizations. He served on the board of the Federation of Defense and Corporate Counsel for six years and is a member of the International Association of Defense Counsel. In addition, Richard is active in the European chapter of the Association Internationale de Droit des Assurances, a worldwide organization of individuals interested in insurance law. As a frequent lecturer, he has spoken to that organization on several occasions, including addressing the AIDA World Congress.

Richard also spoke to the ADTA annual meeting in New Orleans in the spring of 2012. Ironically, the topic of his remarks was the effect of natural disasters and other catastrophic losses on the insurance market.

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## RUMORS, GOSSIP AND INNUENDO

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### ADTA Friendship (and a Little Heavy Lifting) Across the Miles

Former President and First Lady, John & Pam Clifford, met with Pennsylvania State Chair, Jim & his "First Lady" Eileen Ryan Labor Day weekend in Central Park, New York. John and Pam came from San Diego to move their oldest daughter McKenna into housing in Manhattan as she started college on the East Coast and they recruited their seasoned old buddies, the Ryans from Philadelphia, to come up (and lift boxes and unpack crates!) In 2005, they had helped the Ryans' oldest son Timothy when he moved from Philadelphia to San Diego after college. This goes to show how ADTA friendships go beyond the business relationships!



### A Golf Star in our Midst

Past ADTA President George Walker qualified for the 2012 United States Golf Association Senior Amateur Championship at Mountain Ridge Country Club in West Caldwell, New Jersey. During the tournament in late September, George shot 76-79 and missed the cut to advance to match play by 6 shots. He ended up tied for 106<sup>th</sup> of the 156 players who began play. To get there, he shot a one-under par 71 in a 49 player for three spot qualifier in Nashville, finishing tied for second with one other player to earn a spot.

On March 2, 2013, George will complete his two year term as President of the Alabama Golf Association. The AGA is responsible for the oversight of Amateur golf in the state of Alabama, and conducts thirteen state championships each year.

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## BOOK REVIEW

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PATRICK G. CULLEN - BALTIMORE, MD

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*Bad Brake Ford trucks DEADLY when parked*, by Robert Zausner, Camino Books, Inc. 336 pages, (2012) \$27.95.

Probably at some time in your life you have had to deal with this frustrating situation. Your car makes an ominous noise as a warning of impending engine trouble. The noise occurs at random times and never when you are at the car dealer for inspection. By way of analogy, in November, 1992, Ford pickup truck "rollaway" accidents began to be reported to Ford. Manual transmission pickups suddenly drifted downhill even though the parking brake had been set. Subsequent inspections by Ford and its agents failed to disclose any defect in the braking mechanism that had been engineered by Ford and Orscheln in concert.

The author of *Bad Brake* traces a slice of the legal history from 1992 to 2004 of these specific-type rollaway accidents (where there was a spontaneous disengagement of the parking brake). Specifically the histories and outcomes of three cases are reviewed. The author has obviously invested serious effort to investigate what happened at those three trials by talking with the key figures, reading transcripts and interviewing jurors at length.

The connecting threads for the three cases are the similarity of the three very serious accidents, the denial by Ford of any defect in the product and Shanin Specter, Esq. of Philadelphia. Defense lawyers may well be called upon to defend a product case involving vehicles or other instrumentalities of harm and thus may find a review of these case histories insightful.

Particular points of interest might include the extent of the manufacturer's investigation of the accident(s), the role of the subcontractor supplier and the awkward conflict between car manufacturer and parts manufacturer, the choice of non-expert witnesses, the choice of experts (the same old favorites vs. unseasoned we-learned-it-on-the-job-experts), the question of punitive damages, the role of NHTSA, the Motions in Limine and evidentiary issues, the closing arguments and over-all game plans. Of interest too might be the massive pretrial preparation and the extent to which the experts are involved before and during the trial. The book will give you serious pause when reading about the dollar amounts Ford paid its experts for just one trial.

The second and third cases discussed involved the issue of punitive damages. One attorney for the Plaintiff explained what would be fair by having the jury assume that the Defendant had assets of \$10.00. He argued that damages of one cent would not be punitive nor would damages of ten cents be punitive. Perhaps an award of one dollar might be punitive. This turned out to be an effective way of asking for many millions of dollars as just a small percentage of the Defendant's assets.

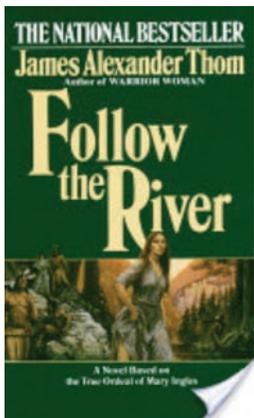
This book is not a novel. By comparison with novels it moved slow in the story telling at times. Historians it is said have a wider perspective than journalists and this book might be proof of that maxim. This book was published in 2012 and the last story in it occurred in 2004. How did Ford address the problem post-2004? What is the situation now? Why publish now when there are far fewer manual transmissions on the road and no doubt the parking brake system has been reinvented by Ford. That having been said, the journalist author does a rather thorough job of describing the three trials. I leave to your reading pleasure the jury verdicts.

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## SPOUSES' COMMITTEE PLANS ACTIVITIES AT THE GREENBRIER ANNUAL MEETING

MELISSA BAILEY - SPOUSES' COMMITTEE CHAIR - BATON ROUGE, LA

The Spouses' Committee is planning an organized walk each morning during The Greenbrier Annual Meeting. The Greenbrier has an outdoor landscape that will make it very difficult for you to not want to participate in this walk, no matter how late you are up the night before. You will get to see wildlife, such as deer, every day, combined with spectacular mountain views.



There will also be a Book Club gathering held on Friday morning. *Follow The River* is a true story and a National Best Seller by James Alexander Thom. He details the incredible true story of young mother Mary Draper Ingles' capture (along with her two sons) by Shawnee Indians in the year 1755. Mary was enslaved and made to sew shirts and make salt for the Indians. She escapes and travels over 500 miles on foot along the New River (near to The Greenbrier), traveling more than

40 days, back to her home at the age of 23. It is a story of endurance, survival and inspiration.

I will be sending emails to spouses in the months prior to the meeting to share information and answer any questions. Amy Bozarth, Co-Chair, and the committee are open to any ideas for other activities that you might have. Be on the lookout for the emails so that we can start a dialogue for both these events as well as other ideas.

Ladies, The Greenbrier is a place of southern charm and eloquence. Start making your plans to attend now!

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## MEMBERSHIP COMMITTEE

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*Northern Region - East*

(Canada: ON, QC, NB, NL, NS, NT, NU, PE, YT)

**Leon Beukman**

*Northern Region - West*

(Canada: AB, BC, SK, MB)

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Stephen R. Crislip - J. Victor Flanagan

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