

**Amended 9/3/2022**

## **CONSTITUTION**

### **Article I - NAME**

The name of this Association shall be ASSOCIATION OF DEFENSE TRIAL ATTORNEYS.

### **Article II - PURPOSE**

This Association is a non-profit professional corporation whose purpose is to bring together those selected trial lawyers from various jurisdictions whose practice consists substantially in the defense of claims and who (a) have more than five years' experience in the litigation and trial of civil actions, (b) are in private practice and not an employee of a law firm owned by an insurance company, (c) have a trial practice and devote a substantial portion of their professional time to defending businesses, insurance companies or their insureds, associations or governmental entities in civil litigation, and (d) possess the knowledge and skill to provide legal services of the highest standard; for the purpose of continuing the education of its members in matters pertaining to the litigation of such claims; for promoting, fostering and maintaining a system of jurisprudence within their respective jurisdictions for the determination of liability and damages in such matters; to own property, real or personal, and to do all things necessary to carry out its purpose.

### **Article III - MEMBERSHIP**

(1) Membership in this Association shall consist of selected members of the bars of various jurisdictions as the Executive Council shall approve, who (a) have more than five years' experience in the litigation and trial of civil actions; (b) are in private practice and are not an employee of a law firm owned by an insurance company; (c) have a trial practice and devote a substantial portion of their professional time to defending businesses, insurance companies or their insureds, associations or governmental entities in civil litigation; and (d) possess the knowledge and skill to provide legal services of the highest standard.

(2) Except as provided in sub-paragraph (3) below, membership shall be limited to one individual prime member from each city, town and municipality provided, however, partners or associates of any prime member shall be eligible for membership as associate members and as such eligible for election to any office in the Association from year to year at the will of said prime member, and providing that membership of such associate member shall terminate automatically upon termination of the membership of the prime member by death, resignation or termination of membership or upon termination of such associate member's relationship as partner, associate or employee of the law firm of the prime member.

Should a prime member change law firm affiliation, that member may remain a prime member subject to the approval of the Executive Council. Membership of an associate member shall terminate automatically upon cessation of affiliation of the prime member with the law firm of the associate member.

(3) Cities, towns and municipalities shall be allowed one prime member for each one million population, or any portion thereof. In the event a city, town or municipality forms part of a metropolitan area having a population in excess of one million, the Membership Committee may at its discretion allow an additional prime member from such metropolitan area per each million of population in excess of one million. No prime member shall be a member of the same firm as another prime member, except that a prime member's firm may have up to 4 additional prime members practicing in a branch or additional office located in another city, town, municipality, and metropolitan area that is eligible for a prime membership. Also, a second prime member is permitted in a single office in the event of the merger or combination of firms with existing prime members.

(4) The Membership Committee shall consist of the Executive Council and such members of the Association as the President shall designate and appoint. The Membership Committee shall pass on all applications for membership, and it shall review the Roster of members and take appropriate action to cancel membership or expel members of the Association pursuant to Article IX.

(5) Any member who retires from active practice or has been elected or appointed to the judiciary and at the time of such retirement, election or appointment fulfills the requirements of membership as stated herein and has been a member for a period of fifteen (15) years, may retain membership herein as an emeritus member without being required to pay dues upon written application

duly approved by the Membership Committee and may attend meetings and conventions. The existence of an emeritus membership shall not preclude the Association from accepting a different prime member from the city, town or municipality theretofore represented by such emeritus member.

(6) Any member otherwise qualified for emeritus status who has failed to complete the minimum time of active membership required may, upon written application, duly approved by the Membership Committee, retain membership herein as an affiliate member by paying the required dues. Such member may attend meetings and conventions. The existence of an affiliate member shall not preclude the Association from accepting a different prime member from the city, town or municipality theretofore represented by such affiliate member. Such affiliate member may apply for emeritus status when he or she has 15 years of total activity and/or affiliate membership.

#### **Article IV - EXECUTIVE COUNCIL**

(1) The management of this Association between annual business meetings shall be vested in the Executive Council. The Executive Council shall consist of the officers of the Association, the immediate Past President, and nine other members, with such members being elected, as nearly as practicable, from different geographical areas. Such members shall be nominated by the Nominating Committee, chaired by the Immediate Past President and comprised of Past Presidents in attendance at the annual meeting, who meet during the annual meeting. The nominations are then presented to the membership during the annual business meeting for consideration after which the Association members in attendance at the annual business meeting elect the members of the Executive Council. In the event the Immediate Past President is not in attendance at the annual meeting, the President shall appoint another Past President to chair the Nominating Committee. If the annual meeting is canceled or postponed pursuant to Article VII, Section (1), such Executive Council members shall be nominated and elected through an electronic vote in accordance with Article VII, to take place as close as practicable to the date the annual business meeting was originally scheduled to take place. In this event, the Nominating Committee shall be comprised of all Past Presidents who were registered for the annual meeting at the time it was canceled or postponed, and all Past Presidents who attended either of the two immediately preceding annual meetings. Election of the nine members to the Executive Council, unless to complete an unexpired

term, shall be for a term of three years. Elections of members to the Executive Council shall be staggered so that each year three new members shall be elected to three year terms. The President of the Association shall be Chairman of the Executive Council.

(2) The Executive Council shall meet the day prior to the annual convention and at the same place, and at such other times as the President may determine, or upon call of a majority of the members of the Executive Council. A minimum of eight present from the Executive Council shall constitute a quorum.

(3) The Executive Council, by two-thirds vote, shall have the power to change the By-Laws of this Association at its annual or any special meeting, provided that ten days' notice prior to the meeting shall be given by the Secretary of this Association to each member of the Council of the proposed amendment.

### **Article V - OFFICERS**

The officers of the Association shall be a President, President-Elect, Vice President, Secretary and a Treasurer, who shall be nominated by the Nominating Committee, chaired by the Immediate Past President and comprised of Past Presidents in attendance at the annual meeting and elected by the membership in attendance at the annual business meeting, who meet during the annual meeting. The nominations are then presented to the membership during the annual business meeting for consideration after which the Association members in attendance at the annual business meeting elect the officers. In the event the Immediate Past President is not in attendance at the annual meeting, the President shall appoint another Past President to chair the Nominating Committee. If the annual meeting is canceled or postponed pursuant to Article VII, Section (1), such officers shall be nominated and elected through an electronic vote in accordance with Article VII, to take place as close as practicable to the date the annual business meeting was originally scheduled to take place. In this event, the Nominating Committee shall be comprised of all Past Presidents who were registered for the annual meeting at the time it was canceled or postponed, and all Past Presidents who attended either of the two immediately preceding annual meetings. In addition, the Executive Council may authorize the employment of an Executive Director of the Association, who shall serve in the office of Assistant Secretary, without vote, or such other persons that the Executive Council deems necessary to conduct the work of this Association, none of whom need to be a member of this Association, and to fix the duties and compensation of such

persons. The offices of Secretary and Treasurer may be combined by the vote of the Executive Council. The duties of the officers shall correspond to the usual duties of persons holding similar offices in organizations of this character, or as may be more specifically defined in the By-Laws and as directed by the Executive Council. The Executive Council may delegate to such Executive Director any such duties of the officers of the Association, except those of the President.

## **Article VI - BOARD OF STATE, PROVINCE AND TERRITORY CHAIRS**

(1) The Board of State, Province and Territory Chairs shall consist of one member from each jurisdiction as appointed by the President.

(2) Members of the Board of State, Province and Territory Chairs shall hold office from the time of their appointment until the conclusion of the next annual business meeting or until their successors may be appointed.

(3) The duties of the State, Province and Territory Chairs shall relate to membership, legislation and other items of local import and as directed by the President.

## **Article VII - MEETINGS**

(1) This Association shall hold an annual meeting at such time and place as the Executive Council may select. The Association shall hold a business meeting as part of the annual meeting, during which the election of officers and new Executive Council members shall take place. The Executive Council shall have the authority to cancel or postpone the annual meeting in the event of a force majeure, including but not limited to acts of God or government authorities, natural disasters, terrorist acts or other emergencies, and pandemics, or due to other unforeseen circumstances unrelated to a force majeure. In the event the annual meeting is canceled or postponed, the election of officers and new Executive Council members shall be accomplished through an electronic vote by Association members who were registered for the annual meeting at the time the annual meeting was canceled or postponed and Association members who attended either of the two immediately preceding annual meetings, said vote to take place as close as practicable to the date the business meeting was originally scheduled to take place. At least one day prior to the date upon which the electronic vote is to take place, the slate of

officers and new Executive Council members nominated by the Nominating Committee shall be provided to the members who were registered for the annual meeting at the time it was canceled or postponed and Association members who attended either of the two immediately preceding annual meetings. Special meetings of the Association may be held upon such notice as the Executive Council may determine, at the time and place to be stated in such notice.

(2) At all meetings of this Association, all members shall be entitled to the privileges of the floor, to introduce motions and resolutions, to vote and to participate in all other business of the Association.

(3) The judicial and legislative power of the Association shall be vested in the member during the annual meeting and the resolutions and motions duly passed at such meeting shall be binding upon the officers and Executive Council.

### **Article VIII - DUES**

Each member shall pay annual dues in such amount as may be hereafter fixed by the Executive Council.

### **Article IX - EXPULSION OR TERMINATION**

(1) Any member may be expelled, or his membership may be canceled for the following reasons, to-wit:

(a) By order of the President of the Association on recommendation of the Membership Committee for non-payment of dues more than four months after the date that the dues were due;

(b) By majority vote of the Executive Council for misconduct of a member in his relations to the Association or the legal profession; or the commission of any act resulting in the member's being censored or reprimanded by final action or any legally constituted Bar Association, State Bar, Ethics Committee of such Bar Association or State Bar, or any Court of competent jurisdiction; or failure to demonstrate and maintain an active interest in the affairs and purposes of the Association; or failure to attend an annual meeting for five consecutive years.

(2) Any member who has been expelled or has had his or her membership canceled by the Executive Council as provided in (1)(b) above shall be given notice in writing of such action by the

Membership Chairman of the Association. Said member shall have thirty (30) days from the date of mailing of said notice within which to submit his or her response or petition for reconsideration in writing, and if such response or petition for reconsideration shall be timely submitted, the same shall be circulated to the members of the Membership Committee for their consideration and a vote on the issue of such membership. A majority vote of the Membership Committee on the request for reconsideration shall constitute final action.

(3) Any member may be expelled or his or her membership canceled whose practice is such that he or she (a) is no longer engaged in a trial practice devoting a substantial portion of his or her professional time to defending businesses, insurance companies or their insureds, associations or governmental entities in civil litigation; (b) is no longer in private practice; and/or (c) has become employed by a law firm that is owned by an insurance company. Upon notice thereof given to the Secretary, the latter shall forthwith make written request to such member to reaffirm in writing to the Secretary within thirty (30) days of the date of said request that such member remains qualified for membership. Upon receipt by the Secretary of said response, the Secretary shall circulate the same to the members of the Executive Council for a vote thereon, and majority vote of the Executive Council shall be final as to the status of such membership.

(4) In the event a Prime member does not attend an annual meeting for four (4) consecutive years, an additional Prime member shall be allowed to join from that Prime member's city, town, municipality or metropolitan area. In computing the four-year period, attendance of an Associate member of the Prime shall count as attendance by the Prime member. A Prime member who has not attended an annual meeting for four consecutive years due to health, hardship or other extenuating circumstances may petition the Executive Council not to allow an additional Prime member. The Executive Council has discretion to grant or deny the petition.

## **Article X - AMENDMENTS**

This Constitution may be amended by a two-thirds vote of the members present at any meeting of the Association or, in the event of an electronic vote, if two-thirds of the votes received approve the proposed amendment. Before any amendment to this Constitution shall be voted on at any meeting, notice thereof shall be given by the Secretary of this Association, to each member not less than thirty (30) days prior to the time of such meeting.

## **BY-LAWS**

### **By-Law I - ELECTION OF OFFICERS**

The election of officers of the Association for the ensuing year and vacancies to the Executive Council shall be by the members by ballot, at the annual meeting of the Association, but said officers shall not take office until the close of said meeting.

In the event of the death, resignation or termination of membership in the Association of the President, the President-Elect shall also serve the remainder of that President's term of office and should the President and the President-Elect both be deceased, resign or their membership be terminated, then the Vice-President shall also serve the remainder of the President's term of office and shall have the same powers of appointment to fill the vacancies as the President is granted.

In the event of death, resignation or termination of membership in the Association of any member of the Executive Council (which includes officers of the Association) during the term of office of such person, the President of the Association shall appoint a member to fill such vacancies to serve for the period of time until the next annual meeting, at which time the vacancy shall be filled by election.

### **By-Law II - COMMITTEES**

In addition to any Committee required by the Constitution, the President shall have the power and responsibility to designate committees and define their duties, as well as appoint the members to all committees.

### **By-Law III - FISCAL YEAR**

The fiscal year of this Association shall begin on January 1<sup>st</sup> of each year.

### **By-Law IV - APPROVED APPLICATIONS**

Application for membership shall be considered by the Membership Committee after consulting with the member of the

Board of State, Province and Territory Chairs from that state, province or territory. Application for additional prime memberships from cities, towns, municipalities, and metropolitan areas of 1,000,000 or more as provided by Article III subparagraph (3) shall be considered by the Membership Committee after consulting with the member of the Board of State, Province and Territory Chairs from that state, province or territory.

### **By-Law V - VOTING**

All prime and associate members in good standing and in attendance at any meeting shall have the right to vote.

### **By-Law VI - SEAL**

The seal of the corporation shall be in the form of a circle and shall bear the name of the corporation. In the center shall be the words "Corporate Seal." The corporate seal of the corporation is affixed hereto.

### **By-Law VII - NOTICE**

Whenever under the provisions of the By-Laws notice is required to be given, it shall not be construed to mean personal notice, but such notice may be given in writing by depositing the notice in the post office or letter box in a post-paid envelope, properly addressed to the name and address as the same appears on the Roster of members of the Association, and the time when the same shall be mailed shall be deemed to be the time of giving such notice. Alternatively, such notice may be given by electronic mail properly addressed to the electronic mail address of the intended recipient(s).

### **Annotations**

Article II – PURPOSE amended to add The United Kingdom and Great Britain and Northern Ireland and the Republic of Ireland as

approved jurisdictions. Amendment approved by unanimous voice vote at the 2014 Business Meeting held in Vancouver, B.C. on April 25, 2014.

Article IX - EXPULSION OR TERMINATION amended to add paragraph (4) related to attendance at annual meetings. Amendment approved by unanimous voice vote at the 2014 Business Meeting held in Vancouver, B.C. on April 25, 2014.

Article V - OFFICERS amended to add language allowing the Executive Council to authorize the Executive Director to serve as an Assistant Secretary of the organization, without vote; or to authorize such other persons that the Executive Council deems necessary to conduct the work of this Association, without the requirement that such persons be members, for the duties and at the rate of pay fixed by the Executive Council. Amendment approved by unanimous voice vote at the 2015 Business Meeting held in Ponte Vedra Beach, Florida, on April 25, 2015.

Articles II, III, VI, and IX and By-Law IV amended as follows. Some changes in Articles III (3) and VI, and By-Law IV are intended to clean up language, including some gender-specific terms. Other changes in Articles II, III (1) and VI, as well as in By-Law IV, are to add France as a new region for membership. The most substantive changes provide clarification of membership requirements, appearing in Articles II, III (1) and IX. They specifically exclude in-house and captive firm counsel, whether for an insurance company or other corporation, from membership. With regard to these provisions, it has long been the conventional wisdom of our members that those attorneys who are in-house or captive firm counsel, whether for an insurance company or other corporation, are not eligible for membership. Though our membership application was consistent with that notion, our Constitution had not previously so stated. Previous language in Articles II, III, and IX, could have allowed in-house counsel, as long as they were "...practic[ing] substantially in the defense of claims at the request of insurance companies and self-insurers..." with a trial-based practice. The previous language also did not consistently reference a requisite length of trial practice or experience. Amendment approved by unanimous voice vote at the 2017 Business Meeting held in Nashville, Tennessee, on April 22, 2017.

Articles IV, V, VII, and X and By-Law I amended to address the transition in leadership in the event the annual meeting is cancelled or postponed and to authorize an electronic vote to facilitate same.

Amendment approved by electronic vote on April 24, 2020.

Articles II, III, and VI amended to remove specific list of counties and other geographic limitations on membership. Approved by electronic vote on April 22, 2021.