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James J. Restivo, Jr.

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James N. Sinunu

Adams, Nye, Sinunu, Bruni, Becht

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LITIGATING, SETTling AND MANAGING

ASBESTOS CLAIMS

Expert Strategies for Counseling and Defending
Your Client from the New Face of Asbestos Claims

Mandalay Bay Resort & Casino
Las Vegas, NV

June 15-16, 2006

If you are at all involved in asbestos litigation, the need to be on the cutting edge of trends, medical advances, and defense strategies has never been greater. Gain strategic information on:

- ✓ Impact of shifting focus from federal trust fund to medical criteria legislation
- ✓ Modeling products and non-products insurance recoveries under different coverage scenarios
- ✓ Preparing for the expanding theory of liability and new defendants in asbestos litigation
- ✓ Forecasting future liabilities through innovative assessment of key drivers of litigation against your company
- ✓ Presenting a winning defense through an advanced understanding of the similarities and differences in defending asbestos-related malignancies



Keynote Luncheon: Observations and Advice from a MDL Asbestos Judge



The Honorable Mark Davidson

Texas MDL Asbestos Judge, 11th District Court

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Litigating, Settling and Managing Asbestos Claims

The complexities surrounding asbestos litigation are changing with new claimants, new targets and proposed state and federal legislation. As the courts are getting more and more sophisticated when it comes to the epidemiology and science behind asbestos cases, it is more important than ever before that you are armed with the toughest defense strategies and the latest information. You not only need to understand the similarities and differences between asbestos-related malignancies, but the perception these cases have on juror sensitivities. As in-house counsel or a defense attorney practicing in this asbestos landscape, any oversight can not only cost you your verdict but also your reputation.

ACI's 7th Annual Litigating, Settling and Managing Asbestos Claims conference in Las Vegas on June 15-16, 2006 will give you up-to-the-minute tools and strategies you need to defend, dismiss or settle these cases in today's asbestos environment:

- ✓ Impact of *Fuller-Austin* on future bankruptcies
- ✓ Cost effective ways to improving claims management
- ✓ Legal analysis of asbestos-related illness state-by-state
- ✓ How to gain leverage in prepackaged negotiations
- ✓ Becoming trial-ready and defining roles within the office

Take this opportunity to share your comments, ask your questions and get answers to the toughest challenges in asbestos litigation. You will also benefit from taking home the extensive written materials prepared by the speakers especially for this conference. Register by calling 888-224-2480, faxing your registration form to 877-927-1563 or by going online at www.americanconference.com/asbestos.

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8:15 **Registration Opens & Continental Breakfast** 

9:00 **Welcome and Opening Remarks**

Edward Hugo

Partner

Brydon Hugo & Parker (San Francisco, CA)

9:15 **The New Face of Claims: Targets, Tactics and Strategies of Asbestos Claimants**

William Patrick Shelley

Partner and Vice Chair

National Insurance Litigation Department
Cozen O'Connor (Philadelphia, PA)

Bryan O. Blevins Jr.

Partner

Provost & Umphrey Law Firm LLP (Beaumont, TX)

- Who are the new plaintiffs?
 - unique defense considerations for contract defendants
- New methods to determine future claims
- How plaintiffs are meeting the new exposure requirements
- The legal bases and new theories of liability for the latest claims — how to adjust your defense
- New jurisdictions seeing asbestos claims
- Size of recent verdicts
- Responsibility for asbestos products of other defendants
 - can an equipment company be held responsible for insulation applied to its equipment?
- Crossclaim proofs and the differences required in different jurisdictions
- Recent attempts to discredit screening examinations and the 'doctors' that have been doing them

10:15 **Asbestos Legislative Initiatives for Federal and State Tort Reform**

Mark A. Behrens

Partner

Shook, Hardy & Bacon LLP (Washington, DC)

Gary D. Sharp

Partner

Foley Mansfield (Detroit, MI)

- Impact of shifting focus from federal trust fund to medical criteria legislation
- Federal trust: legal, practical and tactical considerations
 - state of play in Congress
 - possible constitutional challenges regarding implementation of trust
 - advocates and skeptics: will the insurance industry come together to decide on a fair way to divvy up the costs?
 - what are the potential loopholes in legislation and how can they be closed?

- State reform efforts
 - how is Ohio doing now that it is a year into having passed medical criteria for asbestos and silica cases?
 - status of backlash legislative efforts
- Mississippi's comprehensive tort reform proposal: impact on asbestos litigation
- the latest on the medical criteria legislation in Texas
- reforms being studied in courts: Michigan's proposed state-wide inactive asbestos docket
- new standards for medical criteria
 - impact of the Judge Janice Jack ruling

11:15 **Coffee Break** 

11:30 **Assessing Future Liabilities: How to Forecast What Is Coming Down the Pike for Your Company**

Gayle Koch

Principal

The Brattle Group (Cambridge, MA)

John E. Heintz

Partner

Gilbert Heintz & Randolph LLP (Washington, DC)

With traditional pools drying up, the latest plaintiffs have become increasingly creative in asserting grounds for liability against old and new classes of defendants. These new arguments and assertions mean that past assessments of future liabilities are questionable. In this ever-changing environment, it is more important than ever to update your understanding of what your future liabilities may be. This session will give you tools to make these determinations, including:

- Approaches for placing value on liabilities or a stream of liabilities from now until the end of time
- How to identify the key drivers of asbestos litigation against your company
- Incorporating changes in the environment including
 - mix of claimants
 - product identification and substantial exposure
 - tort reform
 - potential legislation
- Reflecting trends in average costs and defense expenses
- Determining the calendar year payments of future asbestos losses
- Modeling products and non-products insurance recoveries under different coverage scenarios

12:30 **Keynote Luncheon for Speakers and Delegates** 

Observations and Advice from a MDL Asbestos Judge

The Honorable Mark Davidson

Texas MDL Asbestos Judge
11th District Court

2:00 **The Role of Insurance Coverage in Asbestos Cases**

James J. Restivo, Jr.

Partner
Reed Smith LLP (Pittsburgh, PA)

Joseph W. Hovermill

Principal
Miles & Stockbridge PC (Baltimore, MD)

Jim Varner

Managing Director
McNeer, Highland, McMunn and Varner
(Clarksburg, WV)

- Multiple triggers and bad faith elements in asbestos cases to watch out for
- Long-tail policies and dealing with claims of multiple exposures
- Corporate successor issues
- Finding and reconstructing “lost” coverage
 - dealing with predecessors’ companies
 - avoiding doors to punitive damages

3:00 **Refreshment Break**

3:15 **Understanding the Similarities and Differences in Defending Various Asbestos-Related Malignancy Claims**

James N. Sinunu

Partner
Adams, Nye, Sinunu, Bruni, Becht LLP
(San Francisco, CA)

Claimants' attorneys often describe their mesothelioma, lung cancer, and even other cancer cases in the same breath. However, the diseases are different, and their relationship to asbestos exposure is different. Some of these differences are surprising, and need to be understood to give each case its proper evaluation.

- Mesothelioma – pleural and peritoneal
- Lung cancer and other cancers, such as colon and laryngeal, and the relative strengths and weaknesses in defending each kind of cancer claim
- Epidemiology relating to each of the cancers

4:00 **Defense Strategies for Litigating the New Wave of Asbestos Cases**

Douglas G. Wah

Member
Bishop, Barry, Howe, Haney & Ryder
(Emeryville, CA)

- Managing your caseload between your client, local firms, and coordinating counsel
 - why these relationships are so important
- Trends involved in electronic discovery
- Practical steps to keeping your counsel up to date

- Identify the relationship between national and local jurisdictions
 - how to manage expectations
 - communication strategies
 - reporting best practices and tracking settlements
- Becoming trial-ready and defining roles within the office
 - avoid overlooking steps that could cost you
- Staffing issues – identify who should be running certain cases so as not to waste manpower and skills
 - what a paralegal can do
 - when it’s not wise to train on asbestos cases
- Managing settlement disagreements among parties such as your client and the carrier
 - proper communication strategies
- What you want you center clearing house to look like
 - consistent answers for cases in various states
 - standardized discovery responses

5:00 **Close of Day One**

Day Two • Friday, June 16, 2006

9:00 **Chair’s Morning Remarks and Recap of Day One**

9:15 **The Next Generation of Asbestos Bankruptcies**

Policyholder Perspective

Robert Horkovich

Partner
Anderson, Kill & Olick, P.C.

Michael G. Zanic

Partner
Kirkpatrick & Lockhart Nicholson Graham LLP
(Pittsburgh, PA)

Insurance Perspective

Dominica C. Anderson

Managing Partner
Duane Morris LLP (Las Vegas, NV),
and Partner (San Francisco, CA)

Leslie A. Epley

Crowell & Moring LLP (Washington, DC)

- How should insurers exercise “the right to be at the table”?
 - do insurers have standing to object to asbestos bankruptcy negotiations?
- 524(g) as a method for resolving bankruptcies
- Acceleration: what does the future hold for long-tail claims?
- Prepackaged deals
 - negotiating strategies
 - getting court approval
 - future viability of prepackaged bankruptcies

- the impact of *Fuller-Austin*
- How to gain leverage in prepackaged negotiations—whether you are a defendant, a claimant, or an insurance company

10:30 Coffee Break ☕

10:45 Evolving Causation Theories for Low-Dose Exposure Claims

R. Thomas Radcliffe, Jr.

Partner
DeHay & Elliston LLP (Baltimore, MD)

Edward Hugo

Partner
Brydon Hugo & Parker (San Francisco, CA)

- Understand how different asbestos products react in different environments
- Minimum dose of exposure to asbestos to medically link disease to product
- Court considerations for various products and their emission of asbestos in terms of dangerous exposure
- Standards of causation in asbestos litigation at the state level
- Legal analysis of illnesses and laws state by state
- Methods for differentiating asbestos exposure from other environmental/lifestyle factors

12:00 Luncheon for Speakers and Delegates

1:15 Improving Claims Management Using Cost Efficient Resources

David Katzenstein

Partner and National Coordinating Counsel
McGivney & Kluger, P.C. (Florham Park, NJ)

In this interactive session, David Katzenstein will demonstrate how to dramatically improve efficiencies in your office through effective uses of the off-the-shelf software used in our offices every day. Benefit from a practitioner's first-hand experience – not a salesperson!

- How to track documents and case related data in the ever more paperless world
- Maintaining as few resources as possible to service your asbestos case load
- Keeping track of cases and trends for clients defending actions in various states
- Creating a central location to store documents
- Techniques for handling cases that are on hold and not making it on the trial calendar

2:30 Preparing for the Onslaught of Silica Litigation

Michael Nelson

Partner
Kirkpatrick & Lockhardt Nicholson Graham LLP
(Pittsburgh, PA)

Chuck McGivney

Partner
McGivney & Kluger, P.C. (Florham Park, NJ)

According to the National Institute for Occupational Safety and Health, at least 1.7 million US workers are exposed to respirable crystalline silica in a variety of industries and occupations, including construction, sandblasting and mining. Silicosis, lung cancer, lupus, scleroderma, and rheumatoid arthritis are among the diseases caused by crystalline silica particles, many of which are irreversible. This session will give you a thorough understanding of the danger silica poses for companies already impacted by asbestos litigation.

- What silica is and which diseases are associated with it
- Sources of silica exposure
- Emerging landscape of plaintiffs and defendants in silica cases
- Snapshot of silica litigation by jurisdiction
- Insurance coverage
 - potential sources of recovery
 - how much is left?
- Medical differences between silica and asbestos related diseases
- How you can prepare for the potential tsunami of silica claims

4:00 Close of Conference

Who Should Attend

- ✓ Attorneys specializing in
 - Asbestos
 - Silica
 - Product Liability
 - Premises Liability
 - Mass Torts
 - Environmental
 - Litigation
- ✓ In-house counsel for
 - Insurers
 - Automotive, brake pad and motor vehicle companies
 - Companies with any history or potential exposure to asbestos claims
- ✓ Insurance/Reinsurance companies
 - Senior VPs
 - Claims managers
 - Executives

7th National

LITIGATING, SETTLING AND MANAGING ASBESTOS CLAIMS

Expert Strategies for Counseling and Defending Your
Client from the New Face of Asbestos Claims

June 15-16, 2006

Mandalay Bay
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Las Vegas, NV

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