



DRI delivers **resources** to build your practice

# Cannabis Law

Litigation, Risk Mitigation and Policy Updates, Challenges, and Strategies

*Learn about developing litigation issues involving the cannabis industry, from product liability, compliance, and regulatory enforcement actions, to the ethical considerations that permeate all aspects of this emerging industry.*

Analysis of policy shifts, state legalization and regulatory issues, banking trends and challenges, and the ins-and-outs of insurance coverage



May 6, 2020

Boston Marriott Copley

Boston, MA

**T**hirty-three states have legalized medicinal marijuana and ten states have legalized the adult use of marijuana. However, the Controlled Substances Act (Schedule One) and ongoing regulatory uncertainty presents a barrier to full realization of the potential of this \$50+ billion business. This quickly developing sector affects virtually every area of the law and provides opportunities to those with the knowledge base to deftly guide clients and companies through a shifting regulatory and legal landscape. The DRI Cannabis Law Seminar provides you with subject-matter experts who will share with you the knowledge and strategies needed by professionals, businesses, and insurers to traverse the complex pitfalls and prospects of cannabis legalization successfully.



**Melissa K. Roeder**  
Program Chair



**Margaret (Meg) Nash**  
Program Vice Chair



**Stephen O. (Steve)  
Plunkett**  
Law Institute



**Michael B. Cohen**  
Program Vice Chair

PRESENTED BY **DRI's Drug and Medical Device AND  
Medical Liability and Health Care Law Committees**

THIS SEMINAR BROCHURE IS SPONSORED BY **KING & SPALDING**

Register online now at [dri.org](http://dri.org) or complete the form in the back.

## What You Will Learn



- Insurance coverage: CLAIM Act and coverage
- Legislative and policy developments from the National Cannabis Industry Association
- Product liability, FDA oversight, and the vaping crisis
- Ethical considerations that permeate the industry
- The future of banking
- Toxicology and industrial hygiene updates

## Members Get More

- Access to **LegalPoint**™ at **dri.org**: Committee newsletters, seminar course materials, and other publications.
- Access to the **DRI Committee Communities** for **Drug and Medical Device** and **Medical Liability and Health Care Law**: Share articles, post blogs, and connect with others on the latest trends in your area of practice.
- Access to **dri circles**, where lawyer-to-lawyer connections happen. Search **dri circles** in your app store:



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## PROGRAM SCHEDULE

### TUESDAY, MAY 5

6:00 p.m. **Registration**

6:00 p.m. **Networking Reception**

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### WEDNESDAY, MAY 6

**Wireless Access**

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7:00 a.m. **Registration**

7:00 a.m. **Continental Breakfast**

8:00 a.m. **Welcome and Introductions**

**Stephen O. (Steve) Plunkett**, *Bassford Remle PA, Minneapolis, MN*

**Melissa K. Roeder**, *Foley & Mansfield PLLP, Seattle, WA*

8:10 a.m. **The Future of Cannabis Regulatory Policy: The Road Ahead**

This session will discuss recent legislative accomplishments, the current state of affairs in Congress, and what the industry hopes to achieve in the next two years.

**Andrew Kline**, *The National Cannabis Industry Association, Washington, DC*

9:15 a.m. **FDA's Oversight of Cannabis-Related Products: A Rapidly Changing Landscape**

The federal legal and regulatory landscape for hemp, CBD, and other cannabis products has evolved quickly over the last two years, and it is likely to continue to evolve rapidly. The two main federal hurdles to manufacturing and distributing these products are the Federal Food, Drug, and Cosmetic Act and the Controlled Substances Act. This session will help you better understand the FDA's view of the legal status of products containing hemp, CBD, and cannabis, including food, dietary supplements, vaping pens, drugs, and more. FDA insiders and experts will share practical tips and lessons learned, and they will give their thoughts on what lies ahead.

**Lisa M. Dwyer**, *King & Spalding LLP, Washington, DC*

*Click on any speaker name to view bio.*

10:05 a.m. **Refreshment Break**

10:15 a.m. **CBD and Vaping: Liability Issues for Manufacturers, Sellers, and Users**

This session will address the ever-increasing liability risks surrounding CBD products and vaping, at the federal and state level, including FDA claims on unsubstantiated health benefits, federal Lanham Act violations, compensatory and punitive damages, false and deceptive practices, consumer protection, and personal injury claims.

**Gregory M. (Greg) Meihn**, *Foley and Mansfield PLLP, Ferndale, MI*

11:05 a.m. **Cannabis: Exploring the Exposure and Toxicology of THC**

This session will discuss how cannabis (i.e., THC, the most prevalent psychoactive cannabis component) affects the body, including how it is absorbed, metabolized, and distributed after oral and inhalation exposures; how different routes of exposure cause different impairment onset, duration, and recovery durations; and why detection of metabolites persists beyond impairment. Odorous and health-based exposure concerns in grow operations will also be discussed and put into context using examples of legal and illegal grow-ops.

◆◆ **Coreen Robbins, MHS, PhD, CIH**,  
*J.S. Held LLC, Redmond, WA*

◆◆ **Nadia Moore, PhD, DABT, ERT**, *J.S. Held LLC, Redmond, WA*

12:10 p.m. **Lunch (on your own)**

1:10 p.m. **Curbing Cannabis Cash**

Cannabis banking continues to be a pain point for cannabis operators, despite a majority of states having legalized adult-use or medicinal cannabis. This presentation will provide insight into the causes behind the shortage in cannabis banking, how financial institutions can offer services to cannabis-related businesses, and how these businesses can mold themselves into the ideal banking client. In addition, gain

◆◆ Denotes expert

insight into third-party, banking-alternative solutions and the hidden dangers of relying on their services.

**Sahar Ayinehsazian**, *Vincente Sederberg LLP*, Los Angeles, CA

2:00 p.m. **Cannabis Claims: What Can Go Wrong?**

Insurance touches nearly every part of the cannabis arena, from seed to sale. The claims department is where the rubber meets the road and insurers' policy promises are kept or broken. This presentation will discuss cannabis from the insurance claims point of view, which is after the accident occurred and when everyone is trying to pick up the pieces from the loss. Some critical topics to be addressed are hidden exclusions and an update on the CLAIM Act.

**Chantal M. Roberts**, *CMR Consulting Corporation*, Olathe, KS

2:50 p.m. **Refreshment Break**

3:00 p.m. **When Compliance Fails: Defending Regulatory Enforcement Actions**

Responsible cannabis industry members know the vital importance of strict regulatory compliance. But things happen. Employees develop shortcuts. A compliance officer misses a new rule. And sometimes a business is unjustly accused of violating a regulation. This presentation will look at the procedural quirks involved in defending regulatory enforcement actions and the strategies that businesses can employ to mitigate, or even defeat, a regulatory agency's proposed penalties.

**Michael (Mike) McGrory**, *SmithAmundsen LLC*, Chicago, IL

3:50 p.m. **Advising Cannabis Companies on Product Liability**

Understanding and mitigating product liability risks is a core function for attorneys who provide guidance to cannabis-related businesses. This session will examine the product liability claims experience to date with respect to bodily injury cases and product-related claims

of mislabeling, contamination, and recalls, as well as unfair competition and consumer class actions that arise out of those underlying matters. Important trends will be discussed that affect overall product-related exposure, such as the rise of on-site consumption/pot cafés, gram shop liability, THC impairment standards, consumer awareness, evolving testing and labeling requirements, and available insurance protections.

**Ian A. Stewart**, *Wilson Elser Moskowitz Edelman & Dicker LLP*, Los Angeles, CA

4:40 p.m. **Cannabis, Conflicts, Crime—Fraud Exception—and More Ethical Issues**

Cannabis law is a growing and fascinating practice area, but the ethical questions of the practice require extra care and consideration. Consider how to manage the numerous conflicts that arise with cannabis law, including managing clients competing for licenses in the same jurisdiction, building a practice in a relatively small industry, and evaluating whether you can ever ethically go into business with a cannabis client. Learn about when you have to fire your client or withdraw, and how to do so with privilege and your ethical obligations intact. Hear about the crime-fraud exception to the attorney–client privilege and what to do if a court, investigator, or prosecutor serves you with a subpoena or search warrant for privileged communications.

**Jessica C. McElfresh**, *McElfresh Law Inc.*, Encinitas, CA

5:40 p.m. **Adjourn**

6:00 p.m. **Networking Reception** with DRI Drug and Medical Device Seminar Attendees

7:00 p.m. **Dine-Arounds** | Join colleagues and friends at selected restaurants for dinner (*on your own*). More details to be circulated electronically.

## FACULTY *Click on any name to view bio.*

**Sahar Ayinehsazian**, Vicente Sederberg LLP,  
Los Angeles, CA

**Michael B. Cohen**, Quintairos Prieto Wood & Boyer PA,  
Chicago, IL

**Lisa M. Dwyer**, King & Spalding LLP, Washington, DC

**Andrew Kline**, The National Cannabis Industry Association,  
Washington, DC

**Jessica C. McElfresh**, McElfresh Law Inc., Encinitas, CA

**Michael (Mike) McGrory**, SmithAmundsen LLC, Chicago, IL

**Gregory M. (Greg) Meihn**, Foley and Mansfield PLLP,  
Ferndale, MI

◆◆ **Nadia Moore, PhD, DABT, ERT**, J.S. Held LLC,  
Redmond, WA

**Margaret (Meg) Nash**, Vicente Sederberg LLC, Boston, MA

**Stephen O. (Steve) Plunkett**, Bassford Remele PA,  
Minneapolis, MN

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**Melissa K. Roeder**, Foley & Mansfield PLLP, Seattle, WA

**Ian A. Stewart**, Wilson Elser Moskowitz Edelman & Dicker LLP,  
Los Angeles, CA

**View faculty bios on the Cannabis Law Seminar webpage;**  
*click on "View speakers" button.*

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## SEMINAR SPONSORS

DRI wishes to thank our sponsors for their support at this year's seminar!



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### Diversity and Inclusion in DRI: A Statement of Principle

DRI is the largest international membership organization of attorneys defending the interests of business and individuals in civil litigation.

Diversity is a core value at DRI. Indeed, diversity, which includes sexual orientation, is fundamental to the success of the organization, and we seek out and embrace the innumerable benefits and contributions that the perspectives,

backgrounds, cultures, and life experiences a diverse membership provides.

Inclusiveness is the chief means to increase the diversity of DRI's membership and leadership positions. DRI's members and potential leaders are often also members and leaders of other defense organizations. Accordingly, DRI encourages all national, state, and local defense organizations to promote diversity and inclusion in their membership and leadership.

### Harassment and Discrimination

DRI is committed to the policy of equal opportunity regardless of race, color, religion, sex, sexual orientation, gender, national origin and disability in all of its programs and activities, as well as maintaining an environment in our programs and activities which is free from all forms of harassment or discrimination of any kind. Pursuant to this policy, if any person who attends our programs or activities experiences unlawful discrimination or harassment, this should be reported to the Executive Director so that appropriate action may be taken.

## GENERAL INFORMATION

### In-House Counsel

In-house counsel are eligible for free registration to DRI seminars. In-house counsel are defined as licensed attorneys who are employed exclusively by a corporation or other private sector organization for the purpose of providing legal representation and counsel only to that corporation, its affiliates, or its subsidiaries. To qualify for free registration, in-house counsel must be a DRI member and a member of the DRI Corporate Counsel Committee *or* be sponsored by a DRI member who is both registered and has paid for the seminar.

**Nonmember in-house counsel may utilize this offer only once. This offer excludes the DRI Annual Meeting and the DRI Business Management Principles for Lawyers Seminar.**

### Claims Executives

Claims professionals are eligible for free registration to DRI seminars. Claims professionals are defined as any individuals employed by a corporation or insurance company, who spend a substantial portion of their professional time hiring or supervising outside counsel in the representation of businesses, insurance companies or their insureds, associations, or governmental entities in civil litigation. To qualify for free registration, the claims professional must be a DRI member under a corporate membership *or* be sponsored by a DRI member who is both registered and has paid for the seminar. **Nonmember claims professionals may utilize this offer once per calendar year. This offer excludes the DRI Annual Meeting.**

### CLE/Claims Adjusters Accreditation

This seminar has been approved for MCLE credit by the State Bar of California for up to **8 hours**, including **1 hour** of ethics credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. **Application has been made for continuing education for claims adjusters. Texas CE credits pending approval and are not being offered at this time.** Credit availability and requirements vary from state to state; please **check the DRI website at [dri.org](http://dri.org)** for the latest information for your state.

### Registration Policy

**Save \$100 when you register by April 6, 2020.** (See the registration form for pricing.) The registration fee includes course materials, continental breakfasts, refreshment breaks, networking receptions, and access to the DRI App. If you wish to have your name appear on the

registration list distributed at the conference and receive the course materials in advance, DRI must receive your registration by **April 13, 2020** (*please allow 10 days for processing*). Registrations received after **April 13, 2020**, will be processed on-site.

### Refund Policy

The registration fee is fully refundable for cancellations received on or before **April 13, 2020**. Cancellations received after **April 13** and on or before **April 20, 2020**, will receive a refund, less a \$100 processing fee. Cancellations made after **April 20** will not receive a refund, but a \$100 certificate good for any DRI seminar within the next 12 months will be issued. All cancellations and requests for refunds must be made in writing. Fax (312.795.0747) or email ([seminars@dri.org](mailto:seminars@dri.org)) to DRI's Accounting Department. Processing of refunds will occur within four weeks after the date of the seminar. All refunds will be processed in the same method that the payment was received. Substitutions may be made at any time without charge and must be submitted in writing.

### Discounts

**Group Discount** The first and second registrations from the same firm or company are subject to the fees outlined previously. The registration fee for additional registrants from the same firm or company is **\$495**, regardless of membership status if received on or before **April 6, 2020**. After **April 6**, the group rate is **\$595**. All registrations must be received at the same time to receive the discount.

**Travel Discounts** DRI offers discounted meeting fares on various major air carriers for **DRI Cannabis Law Seminar** attendees. To receive these discounts, please contact Direct Travel, DRI's official travel provider, at 800.840.0908. As always, to obtain the lowest available fares, early booking is recommended.

- The taping or recording of DRI seminars is prohibited without the written permission of DRI.
- Speakers and times may be subject to last-minute changes.
- A small portion of your room rate offsets the costs of the seminar.
- DRI policy provides there will be no group functions sponsored by others in connection with its seminars.

### Hotel Accommodations

A limited number of discounted hotel rooms have been made available at **Boston Marriott Copley, 110 Huntington Ave, Boston, MA 02116** ([click here](#) to view hotel photos).

Take advantage of the group rate of **\$319 Single/Double** in one of two ways:

- 1) Reserve online: [Click here](#) or visit [dri.org](http://dri.org) and go to the **DRI Cannabis Law Seminar page** and click on the "Book hotel" button.
- 2) Or **contact the hotel directly at 617.236.5800** and mention the **DRI Cannabis Law Seminar**.

The hotel block is limited and rooms and rates are available on a first-come, first-served basis. You must make reservations by **April 6, 2020**, to be eligible for the group rate. Requests for reservations made after **April 6** are subject to room and rate availability.

## CLE for Your Practice

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February 5–7

### **Product Liability Conference**

*New Orleans Marriott, New Orleans, LA*

February 20–21

### **Toxic Torts and Environmental Law**

*Pointe Hilton Tapatio Resort,  
Phoenix, AZ*

March 18–20

### **Litigation Skills**

*Paris Las Vegas, Las Vegas, NV*

March 26–27

### **Medical Liability and Health Care Law**

*Hilton Austin Downtown, Austin, TX*

April 1–3

### **Insurance Coverage and Claims Institute**

*Swissôtel Chicago, Chicago, IL*

April 29–May 1

### **Life, Health, Disability and ERISA**

*Sheraton New Orleans,  
New Orleans, LA*

April 30–May 1

### **Trucking Law**

*JW Marriott Austin, Austin, TX*

May 6–8

### **Drug and Medical Device Litigation**

*Boston Marriott Copley, Boston, MA*

May 7–8

### **Retail and Hospitality Litigation**

*Walt Disney World Dolphin and  
Swan Resort, Orlando, FL*

May 14–15

### **Business Litigation Super Conference**

*Minneapolis Marriott City Center,  
Minneapolis, MN*

May 14–15

### **Intellectual Property Litigation**

*Minneapolis Marriott City Center,  
Minneapolis, MN*

May 20–22

### **Employment and Labor Law**

*Hilton Denver City Center, Denver, CO*

June 11–12

### **Diversity for Success**

*Westin Michigan Avenue, Chicago, IL*

June 25–26

### **Young Lawyers**

*InterContinental Buckhead, Atlanta, GA*

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REGISTRATION FEE

Registration fee includes seminar attendance, networking receptions, course materials, and access to the DRI App. DRI will email a link to download the course materials to all registrants two weeks in advance of the seminar. Only members of DRI will have access to the PowerPoint presentations after the seminar.

	On or before Apr. 6, 2020	After Apr. 6, 2020	
<input type="checkbox"/> Member	\$595	\$695	For inclusion on the preregistration list and to receive course materials in advance, <b>register by April 13, 2020.</b>
<input type="checkbox"/> Nonmember	\$915	\$1,015	
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<input type="checkbox"/> In-House Counsel Member*	FREE		
<input type="checkbox"/> Claims Executive Member*	FREE		
<input type="checkbox"/> Group Discount*	\$495	\$595	

Attend both Cannabis Law and Drug and Medical Device Litigation seminars:

<input type="checkbox"/> Member	\$1,185	\$1,285	Or contact DRI Customer Service at 312.795.1101 to register for both.
<input type="checkbox"/> Nonmember	\$1,505	\$1,605	

\*As defined on page 5

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## Cannabis Law Seminar

May 6, 2020

Boston Marriott Copley  
Boston, MA

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