

Declaration of Candidacy

Candidates for election as Second Vice President or Director Elected Nationally must complete this form and submit it to the Executive Director at the principal headquarters of DRI by 5:00 PM (CDT) on July 1st of the year in which the election is held.

National Director Requirements - Directors Elected Nationally or by Region must be Individual Members of the Corporation admitted to the practice of law. Each such director must meet the following qualifications at the time of election: (a) The candidate shall have been a DRI member for a total of at least five (5) years, and (b) The candidate shall have been a member of at least one DRI substantive law committee for at least three (3) years, and (c) The candidate must have registered for and attended at least one (1) DRI Annual Meeting within the previous three (3) years, and, within the three (3) years prior to the final day of the Annual Meeting, the candidate must have 1) registered for and attended at least two (2) DRI seminars, or 2) registered for and attended one (1) DRI seminar and one (1) DRI Regional Meeting.

Position sought

☐ Second Vice President* ☐ Secretary- Treasurer ☒ National Director

*If you have declared your candidacy for Second Vice President and are not the successful candidate, will you consider the Secretary - Treasurer Officer position?

☐ Yes ☐ No

Name: Matthew S. Foy

Firm/Company: Gordon Rees Scully Mansukhani, LLP

Address: 275 Battery Street, San Francisco, California 94111

Telephone: (415) 875-3174 **Cell Phone:** (415) 505-7998

E-mail: mfoy@grsm.com

Born (location): Stockton, California

Education: J.D., Santa Clara University School of Law, 1996
B.S., University of Southern California, 1992

Awards and achievements: Recipient of the Moot Court Best Brief Award (1996, SCU School of Law); American Jurisprudence Award for Insurance Law (1996, SCU School of Law); Best

Business Plan (1992, USC Marshall School of Business); Super Lawyers® distinction in the field of Insurance Coverage (2016 to Present).

Areas of practice: Primarily insurance coverage litigation (85%). Practice has expanded to include professional liability defense on a select basis (15%).

Years as a defense attorney: 22 years

Employment history: Gordon Rees Scully Mansukhani, LLP – 2001 to Present
Branson, FitzGerald & Howard – 1996 to 2001

Noteworthy defense work: National counsel for numerous insurers responsible for litigating and trying cases and providing coverage advice in California and across the country. Filed one of the first (and possibly the first) dispositive motions on the application of Coverage B (Personal and Advertising Injury) to underlying data breach litigation in the Northern District of Illinois (favorable settlement achieved while motions pending). Secured summary judgment in favor of insurer client in connection with high exposure consolidated class actions based on determination that underlying statutory privacy violations did not present exposure for potentially covered damages under CGL policies. Secured dismissal of multi-million dollar stipulated judgment pursued against insurer client based on novel argument regarding non-application of California Insurance Code section 11580 (direct action statute) to professional liability policies. Secured arbitration dismissal of multi-million dollar coverage action based on lack of professional liability coverage for underlying construction delay / liquidated damages claim. Secured phased trial ruling that settlement of bankruptcy litigation involving alleged fraudulent conveyances of over \$300 million in dividends and fees constituted uninsurable restitution / disgorgement. Secured dismissal of significant claim for *Brandt* fees (prosecution costs) at recently tried bad faith case in California (merits determination pending). Secured arbitration dismissal of attorney client in action for malpractice brought by litigation funding company on lack of standing grounds.

Professional affiliations: Member in good standing of the California and Massachusetts bars. Member of the International Association of Defense Counsel.

DRI member since: 2003

Please describe your previous involvement in DRI, including but not limited to, leadership positions held. Projects contributed to, Committee memberships, presentations given, and written materials authored. Special accomplishments should also be noted.

Leadership positions include: Former editor of *Covered Events* (e-newsletter for the Insurance Law Committee); Vice-Chair of the Insurance Coverage and Practice Symposium (2010); Insurance Bad Faith Compendium, Regional Editor (2010); Chair of the Insurance Coverage and Practice Symposium (2011); Vice-Chair of the Insurance Law Committee (2014-2016); Chair of the ALI Task Force (2015 to Present); Chair of the Insurance Law Committee (2016-2018); Member of the Insurance Roundtable Steering Committee (2016 to Present);]Member of DRI Staff Counsel Initiative (2018 to Present).

Selected presentations include: Defending Under a Reservation of Rights, Just Because You Can Does Not Always Mean You Should, Insurance Law and Claims Conference, Hartford (October 2015); The Future of the Privacy Offense: Coverage B and Beyond, Insurance Coverage Practice Symposium, New York (December 2014); Bringing It All Back Home: A Panel Discussion, DRI Sexual Torts Conference, Los Angeles (November 2013); The Worm That Byte Me: Emerging Issues in Insurance Coverage for Data Breaches, Invasion of Privacy Claims, and Cyber Crimes, Insurance Coverage Practice Symposium, New York (December 2012); Long-Tail Claims – Recurring Issues and Recent Developments, Insurance Coverage and Claims Institute, Chicago (April 2011); Bad Faith Issues, Insurance Coverage and Claims Institute, Chicago, Illinois (April 2010); Excess Pressure! A Review of Issues Related to Excess Insurer Defense Obligations, Insurance Coverage and Claims Institute, Chicago, Illinois (April 2009); Papered To Death: The Use And Abuse Of Written Discovery, Insurance Coverage and Claims Institute, Chicago, Illinois (April 2007); Fiess v. State Farm, A Nightmare For The Plaintiffs' Bar, DRI Annual Meeting, San Francisco (October 2006); Duty to Defend Lawsuits Alleging Exposure to Cell Phone Radiation, Insurance Coverage and Practice Symposium, New York (December 2004).

Written materials include (in addition to articles submitted in connection with the above-reference presentations): Notes From the Chair, For the Defense (2018); Notes From the Chair: An Opportunity and an Honor to Serve, For The Defense (May 2017); Leadership Notes, *Covered Events* (December 2014, December 2015, December 2016, and February 2017); Sony's Interview Quagmire: A Watershed Moment for Cyberinsurance, Co-Author, In-House Defense Quarterly (April 2015); A Comprehensive Review of the Oral and Written Publication Requirement Under Coverage B, Defense Research Institute (2013); Indoor Air Quality - Carbon Monoxide and the Pollution Exclusion, For the Defense (May 2003).

List any leadership roles in other defense organizations: National Chair of the Insurance Practice Group for Gordon Rees Scully Mansukhani, LLP.

Describe your goals if you are elected to the above position: Dedicating my time, energy, experience, and critical thought to the organization that has made my legal career far more fulfilling than it otherwise would have been and to which I attribute a significant part of my professional success. Expanding on efforts as Chair of the Insurance Law Committee to ensure the organization's place as the premier provider of legal education to the defense bar. Ensuring that the organization remains successful and continues to maintain and expand membership under circumstances where we continue to see a tightening of discretionary spending and expanding competition.

What do you believe is the most important issue confronting the defense bar? An increasingly organized and aggressive plaintiffs' bar in an era where ready and efficient access to a thoughtful judiciary is becoming increasingly challenging due to budget cuts and lack of judicial funding.

Define the appropriate role for DRI as the national defense bar organization: To serve the needs and advance the interests of the defense bar (and insurance industry) including by way of providing high quality, cutting edge legal education, and forums for defense attorneys to hone their skills and advance their careers. To serve as a counterpoint to the plaintiff's bar.

Hobbies and/or interests: Coaching kids athletics teams; rebutting daughter's efforts to explain why she is a better guitar player than I am; skiing with the family and rebutting wife's efforts to explain why she is a better skier than I am; fly fishing; doing my best to balance professional endeavors while trying to find some vacation time including to the family home in County Kerry, Ireland.

Family: Married to Siobhan Connolly Foy since 2000. Father to Catherine McKenna (15), John Patrick (13), and Declan Connolly (9)
