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# 2023 ANNUAL REPORT

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 THE  
**CENTER**  
FOR LAW AND PUBLIC POLICY





A very special thank you to the 2023 members of the Center's Advisory Council. Their support and guidance on projects and initiatives throughout the Center is valued beyond description by DRI leadership.

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***AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION***  
***HOLLINGSWORTH LLP***  
***NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES***  
***U-HAUL***  
***ZURICH NA***

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The Advisory Council is a group of companies, law firms, and other organizations within the Center. The Advisory Council regularly meets to provide input into the Center's overall strategy. Advisory Council members may also support specific Center initiatives, depending on their interest.

To learn more about the Advisory Council or how to join, email [TheCenter@dri.org](mailto:TheCenter@dri.org).



Thank you, as well, to each and every law firm, company, and organization with appointed members to the committees, task forces, and working groups within the Center. Your labor is why the Center is known as *The Voice of the Defense Bar*.

Adams and Reese LLP, Atain Insurance, Babst Calland Attorneys at Law, Barry McTiernan & Moore LLC, Beveridge & Diamond PC, Bodman PLC, Borden Ladner Gervais LLP, Bowman and Brooke LLP, Bradley Arant Boult Cummings LLP, Bricker Graydon LLP, Brown and James PC, Bullivant Houser Bailey PC, Butler Snow LLP, Capital Appellate Advocacy PLLC, Cetrullo LLP, Christensen & Jensen Attorneys, Clausen Miller PC, Cross Jenks Mercer & Maffei LLP, Dentons Sirote PC, Dinsmore & Shohl LLP, Dutton Brock LLP, Dykema Gossett PLLC, Elverson Vasey Attorneys at Law, Eversource Energy, Evert Weathersby Houff Attorneys at Law, Farmers Mutual of Nebraska, Fey LLC, Franz Ward LLP, Freeman Mathis & Gary LLP, Goodwin Procter LLP, Gowling WLG (Canada) LLP, Grove Holmstrand & Delk PLLC, Hall Booth Smith PC, Hawkins Parnell & Young LLP, HeplerBroom LLC, Herrin Health Law PC, Hinshaw & Culbertson LLP, Hite Fanning & Honeyman LLP, Horvitz & Levy LLP, Houston Harbaugh PC, Irwin Fritchie Urquhart & Moore LLC, Jackson Kelly LLP, Jenner & Block LLP, Johnson Hanan Vosler Hawthorne & Snider PC, Kelley Kronenberg Attorneys at Law, Kennedy & Graven, Chartered, King & Spalding LLP, Larson King LLP, Lewis Thomason King Kreig & Waldrop PC, Lightfoot Franklin & White LLC, Locke Lord LLP, Markel Services Inc., Marshall Dennehey Warner Coleman & Goggin PC, Maynard Nexson PC, McGlinchey Stafford PLLC, Milling Benson Woodward LLP, Morrison Mahoney LLP, Nelson Mullins Riley & Scarborough LLP, Nissan North America, O'Bryon and Schnabel PLC, Ogden Murphy Wallace PLLC, Ogletree Deakins Nash Smoak & Stewart PC, O'Hagan Meyer Attorneys at Law, Overturf McGath Hull PC, Peri & Stewart LLC, Pierce Atwood LLP, Plunkett Cooney PC, Reed Smith LLP, Reeves Law LLC, Robinson + Cole LLP, Rodey Dickason Sloan Akin & Robb PA, Roetzel & Andress LPA, Rogers Townsend LLP, Sanderson Firm PLLC, Shari Belitz Communications, Shook Hardy & Bacon LLP, Sidley Austin LLP, Sulloway & Hollis PLLC, Sutter O'Connell Attorneys, Taylor Porter Brooks & Phelps LLP, Taylor Wessing, TM Claims Service, Inc., Troutman Pepper Hamilton Sanders LLP, Turney LG, Underwood Law Firm, Walmart Inc., Waranch & Brown LLC, Warner Norcross + Judd LLP, Westguard Insurance Co., Wiedner & McAuliffe, Ltd., Womble Bond Dickinson (US) LLP

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## A MESSAGE FROM THE CENTER CHAIR, **LARRY EBNER**

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*Lawrence S. Ebner is both Founding Member of Capital Appellate PLLC in Washington, D.C., and Executive Vice President and General Counsel of the **Atlantic Legal Foundation**. A Fellow of the **American Academy of Appellate Lawyers**, Larry has a half-century of pro-business litigation experience. In addition to handling appeals for companies of all sizes, he has authored dozens of amicus curiae briefs in the Supreme Court, and in federal courts of appeals and state appellate courts throughout the United States. At the Atlantic Legal Foundation, Larry conducts that national, nonprofit, public interest law firm's renowned amicus program, including by personally authoring almost all of its amicus briefs. He also serves as chair of the Appellate Law Section of the Federation of Defense and Corporate Counsel.*

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Dear Valued DRI and Center Members and Supporters:

It is with pride that I present to you the DRI Center for Law and Public Policy's first Annual Report covering the Center's accomplishments during 2023. It is a privilege to serve as Chair of the Center, and I'm honored to share the milestones and accomplishments of our collective mission.

This year has been a testament to the hard work and unwavering dedication of our team, our growing committees, and the trust placed in us by the DRI community. Throughout this report, you'll see the impact of our collective efforts and the significant strides we've made toward the Center's goal of providing the most effective voice for the civil defense bar.

**I extend my deepest gratitude to every individual, committee, and organization that has contributed time, expertise, and resources to further our mission. Your support has been pivotal in shaping the success of the Center. Together we have been able to raise the profile of the Center, both within DRI and the legal community at large.**

I am deeply honored to have the opportunity to continue serving as Chair and am excited about the possibilities that lie ahead for the Center. With the support of our dedicated team and incredible community, I am confident that we will achieve even greater milestones.

Thank you for your ongoing trust, support, and commitment to our shared vision. Together, we have made a lasting impact. I am immensely proud of what we've achieved and look forward to what is to come in 2024.

Warm regards,

A handwritten signature in cursive script that reads "Larry Ebner".

**LARRY EBNER, CENTER CHAIR**  
The DRI Center for Law and Public Policy



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# MAKING THE MOST OF YOUR DRI MEMBERSHIP

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## LOOKING TO DO MORE WITH YOUR DRI MEMBERSHIP?

DRI is not just part of your career; we're a partner in it. Leverage these exclusive resources and high-quality programming to expand your network, skills, and business. Learn more at [DRI.org/Membership](https://www.dri.org/membership).

### ◆ **Grow Your Referral Network with Fellow DRI Members**

In a survey of active DRI members, 49% of respondents reported that they have given or received a referral in the last two years, and at least 40% of those referrals were worth more than \$50K. Connect with your DRI community to build your network and expand your business.

### ◆ **Expand Your Expertise Through SLC Leadership Roles**

Take on leadership roles and surround yourself with a network of attorneys in your practice area by joining one of DRI's 29 substantive law committees at no additional cost.

### ◆ **Share Your Knowledge by Speaking at DRI Seminars**

Achieve professional success by sharing thought-provoking ideas on cutting-edge topics in your field. Establish yourself as a trusted source by speaking at DRI seminars and webinars.

### ◆ **Establish Yourself as a Thought Leader with DRI Publications**

Looking to share your professional expertise with colleagues around the globe? DRI's publications offer publishing opportunities to share your thought leadership to help civil defense lawyers with pressing litigation matters and more.

### ◆ **Save with Exclusive Discounts and Solutions Marketplace Access**

DRI Members receive exclusive discounts on seminars, webinars, on-demand learning, and more. Make sure to take advantage of your access to DRI's Solutions Marketplace and Affinity Programs that offer solutions for your professional challenges.

### ◆ **Leverage the Expertise of Leading Defense Practitioners**

With thousands of documents at your fingertips, LegalPoint helps you find what you're looking for. Filter by practice area and resource to make it even easier to find an article on your issue. LegalPoint offers a robust online library of DRI articles, books, and materials.

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# THE CENTER MANAGEMENT COUNCIL

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## LARRY EBNER

### Center Chair

Lawrence S. "Larry" Ebner is both Executive Vice President & General Counsel of the **Atlantic Legal Foundation** and Founding Member of **Capital Appellate Advocacy PLLC** in Washington, D.C.



## JOHN GUTTMANN

### Center Vice Chair

John S. Guttman is a principal of **Beveridge & Diamond PC** in Washington, D.C., where he represents companies in complex, high-stakes toxic tort, product liability, and environmental litigation.



## JOHN PIERCE

### Public Policy Chair

John C.S. Pierce is a shareholder in **Dentons Sirote**'s Mobile, Alabama, office, where he is a member of the litigation practice group.



## JIM MCCRYSTAL

### Legislation And Rules Chair

James L. "Jim" McCrystal is Of Counsel with **Sutter O'Connell** in Cleveland. He has spent four decades handling product liability cases and now has a national practice in that field.



## LISA BAIRD

### Incoming Amicus Chair

A partner of **Reed Smith LLP** in Miami, Florida, Lisa M. Baird represents manufacturers of medical devices, prescription drugs, and OTC drugs in product liability and commercial litigation.



## MATT NELSON

### Outgoing Amicus Chair

Matthew T. "Matt" Nelson is a partner of **Warner Norcross + Judd LLP** in Grand Rapids, Michigan, where he chairs the firm's appellate practice group.

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# THE CENTER MANAGEMENT COUNCIL

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**PHIL WILLMAN**

President

Philip L. "Phil" Willman is a partner of **Brown & James PC** in St. Louis, Missouri, where he devotes his trial practice to defending physicians, medical schools, nurses, hospitals, nursing homes, psychologists, and other healthcare providers.



**LANA OLSON**

Incoming Ex Officio

Lana A. Olson is a partner of **Lightfoot Franklin & White LLC** in Birmingham, Alabama. She is the immediate past president of DRI. Maintaining a varied litigation practice, Lana handles matters involving environmental, toxic tort, product liability, catastrophic injury, and employment claims.



**DOUGLAS BURRELL**

Outgoing Ex Officio

Douglas K. Burrell, a partner of **Chartwell Law** in Atlanta, is an established and experienced trial attorney. He has developed comprehensive experience while serving as first chair on more than 40 jury trials and more than 100 bench trials.



**DEAN MARTINEZ**

Chief Executive Officer Dean

Martinez is the CEO of **DRI**.



**SEAN DOLAN**

General Counsel

Sean Dolan is COO and general counsel of **DRI**.



**JAY LUDLAM**

Director

Jay Ludlam is the director of the **Center for Law and Public Policy**.



# 2023 HIGHLIGHTS

## THE CENTER'S SUCCESSES

During the **2023 NFJE Annual Symposium**, held in July in Washington, D.C., the Center sponsored a panel discussion on "Improving Rule 702." The Center panel explained how the amendment to Federal Rule of Evidence 702 will strengthen the role of the court as gatekeeper for the admissibility of expert opinion. The panel, which was moderated by Center President **Phil Willman** (*Brown & James PC*), included **Lee Mickus** (*Evans Fears & Schuttert LLP*), past Center and DRI President **Toyja E. Kelley** (*Locke Lord LLP*), and **Elyse Shimada** (*Hollingsworth LLP*).

During **DRI's 2023 Annual Meeting**, attendees joined the Center for stand-out sessions, including an in-house panel discussion about the plaintiffs' bar's most rampant abuses, their impact on the legal industry, and how the defense bar can respond. "Legal System Abuse: An In-House Perspective" was moderated by then-**DRI President-Elect Patrick Sweeney** (*Sweeney & Sheehan*) and featured speakers **Lisa Bellino Apelian** (*Zurich North America*), **Andrew Pauley** (*National Association of Mutual Insurance Companies*), **Konrad Pilatowicz** (*U-Haul International, Inc.*), and **Stef Zielezienski** (*American Property Casualty Insurance Association*).

Thanks to then-DRI President **Lana Olson** and Center Vice Chair **John Guttman** for their October 16, 2023, testimony before the Advisory Committee on the Rules of Civil Procedure in support of proposed amendments to FRCP 16 and 26 regarding privilege logs and proposed FRCP 16.1 regarding MDL proceedings, respectively. They elaborated on the Center's recently filed comments on the proposals. Many thanks also to **Greg Farkas** (*Franz Ward*) and **Jeff Holmstrand** (*Grove Holmstrand & Delk*) for serving as primary authors of the Center's comments on

**FRPC 16 & 26** and **FRCP 16.1**, respectively.

Congratulations to **Marta-Ann Schnabel** (*O'Bryon & Schnabel PLC*), who chairs the Center's Nonlawyer Ownership of Law Firms Task Force, as well as task force members **Susan Gunter** (*Dutton Brock LLP*) and **Tom Hurney** (*Jackson Kelly PLLC*), for winning the **2023 G. Duffield Smith Outstanding Publications Award** for their work on the 2022 Center white paper, **Nonlawyer Investment in the Legal Economy!** The award honors the best writing published by DRI in the previous calendar year. The trio also put on a webinar, **Nonlawyer Investment in the Legal Economy**, as a follow-up to the white paper of the same name. This webinar, **now available to members** via DRI's on-demand library, outlines the major regulatory changes in several U.S. states that now permit nonlawyers to own law firms.

The Center is proud to support its **ADR Diversity, Equity, and Inclusion Initiative** and its goal of increasing diversity and inclusion among neutrals in underrepresented categories. On November 29, during the DRI Insurance Coverage and Practice Symposium in New York City, the initiative attracted a packed room of engaged symposium attendees who wanted to learn about what this group is doing to increase diversity among neutrals appointed to resolve insurance-related disputes—and how their organizations can get involved. Many thanks to initiative members **Toyja Kelley** (*Locke Lord LLP*), **Rebekah Ratliff** (*JAMS*), **Josh Schwartz** (*Chubb*), and **Maria Volpe** (*John Jay College of Criminal Law*) for serving on a panel that was moderated by **Chris Kwok** (*JAMS*).



Lana Olson & John Guttman



2023 NFJE Symposium Center Panel



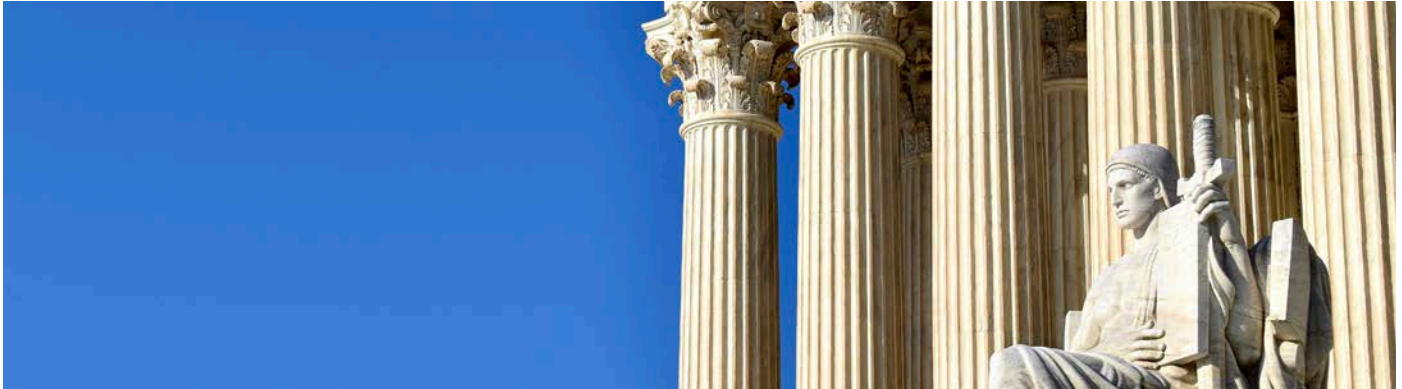
Members of the Center's ADR DE&I Initiative in New York



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# 2023 HIGHLIGHTS THE COMMITTEE AND SUBCOMMITTEE SUCCESSES

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## Amicus Committee

The Center's **Amicus Committee** prepares amicus curiae briefs on behalf of DRI in carefully selected cases that present issues of extraordinary importance to civil litigation defense lawyers, their clients, and the civil justice system. DRI may participate as amicus curiae at either the certiorari stage or the merits stage in cases pending before the U.S. Supreme Court, and occasionally files in federal court of appeals cases. Requests for amicus support in state appellate courts are referred to the appropriate State and Local Defense Organization (SLDO) for possible collaborative filings.

### New Appointments, Subcommittees, and Task Forces

The Center is **pleased to announce** new leadership appointments to its Amicus Committee, including new Chair **Lisa Baird** (*Reed Smith*) and Vice Chair **Melinda Kollross** (*Clausen Miller*). DRI and the Center wish to thank **Matt Nelson** (*Warner Norcross + Judd LLP*) for his years of service as chair of the Amicus Committee. Matt, who now serves on the DRI Board as Central Region Director, will continue to serve as a member of the Amicus Committee. Also in 2023, the Amicus Committee launched two new subcommittees: **Appellate Skills Development** and **Appellate Litigation Issues & Trends**, the former of which is chaired by past DRI president and current Amicus Committee member **Mary Massaron** (*Plunkett Cooney*) and comprised of current Amicus Committee members **Chad Pekron** (*Walmart Inc.*) and **David Axelrad** (*Horvitz & Levy*), past DRI President **Henry Sneath** (*Houston Harbaugh*), and DRI member **Jeff Doss** (*Lightfoot Franklin & White*).

### Other Recent Amicus Activity

In August, the Center filed a brief with the United States Supreme Court in ***Loper Bright Enterprises, et al. v. Gina Raimondo Secretary of Commerce, et al.***, No. 22-451. **The brief**, which was authored by **Melinda Kollross** and **Don Sampen** of Clausen Miller P.C., was filed in support of the petitioners but took the position that a federal administrative agency's authority should be tested under the "major questions doctrine" rather than the traditional *Chevron* doctrine.

In November, the Center joined **the brief of the Atlantic Legal Foundation** in ***Medical Marijuana Inc., et al. v. Horn***, urging the Supreme Court to limit civil RICO's scope.

In December, the Center joined the Colorado Association of Defense Lawyers **brief to the Colorado Supreme Court** in ***Antero Treatment LLC v. Veolia Water Technologies Inc.***, seeking to protect contractual expectations via proper application of the economic loss rule.

Also at the end of 2023, the Center **filed a brief** with the U.S. Supreme Court in ***Photoplaza v. Herbal Brands***, which involves the exercise of specific personal jurisdiction over corporate defendants that sell products online. **Melinda Kollross** and **Michael Raudebaugh** of Clausen Miller authored the Center's brief in support of the cert petition. The Center also **filed a brief** on the merits in ***Bissonnette v. LePage Bakeries***, which involves the breadth of the Federal Arbitration Act's exemption regarding interstate commerce. The brief was authored by **Sarah Elizabeth Spencer** of Christensen & Jensen and was joined by the Atlantic Legal Foundation.



## Legislation and Rules Committee

The **Legislation and Rules Committee** works directly with policymakers to appropriately represent the views of the defense bar and to protect the integrity and fairness of the civil justice system. This can take various forms, including providing testimony, public comment, counsel, and research to elected and appointed officials and government agencies. Where the issue arises on a state or local level, the Committee works closely with the relevant SLDO to provide assistance, resources, and counsel. The Legislation and Rules Committee includes task forces on Class Actions, Medicare Secondary Payer, and Federal Rules, State Legislation and Rules, Multidistrict Litigation, and ALI.

### New Appointments, Subcommittees, and Task Forces

**Brooks Magratten** (*Pierce Atwood*) was **appointed Vice Chair** of the Center's **Legislation and Rules Committee**. **Robert E. Johnston** (*Hollingsworth LLP*) was appointed to serve on the committee.

**Greg Farkas** (*Frantz Ward LLP*) is now a member of the Center's **Federal Rules Task Force**.

Past DRI and Center President **Toyja Kelley** (*Locke Lord*) was appointed chair of the **MDL Working Group**, with **Darlene Peters** (*Irwin Fritchie*) serving as vice chair. Other members of the working group include **Carlos Benach** (*Irwin Fritchie*), **Ryan Clark** (*Lewis Thomason*), **Jeff Holmstrand** (*Grove Holmstrand*), **Anita Modak-Truran** (*Butler Snow*), **Torrey Peterson** (*Shook Hardy*), and **Rob Wise** (*Nelson Mullins*).

The **State Legislation & Rules Task Force** was launched to provide support to SLDOs by assisting, upon request, SLDOs interested in evaluating, supporting, or opposing potential legislation or rules affecting their members and clients and supporting SLDOs interested in promoting legislation or rules adopted in other jurisdictions. The task force is chaired by **Brooks Magratten** (*Pierce Atwood*).

With current representation in 19 states, the task force is looking for members from other jurisdictions to join the effort. Current representation includes **Arizona** (Sarah Wolfe - *U-Haul*), **Colorado** (Brandon Hull - *Overturf McGath Hull*), **Illinois** (Henry Goldman - *Wiedner & McAuliffe*), **Iowa** (Josh Strief - *Elverson Vasey*), **Louisiana** (Francine M. Giugno - *Kelley Kronenberg* and Taylor Brett - *Adams & Reese*), **Massachusetts** (Kyle Bjornlund - *Cetrullo LLP*), **Maryland** (John Sly - *Waranch & Brown LLC*), **Missouri** (John Reeves - *Reeves Law LLC*), **Nebraska** (Kerri Snowden - *Farmers Mutual of Nebraska*), **New Jersey** (Mike Malia - *Peri & Stewart LLC*), **New York** (Claire Rush - *Barry McTiernan & Moore* and Steve Dyki - *Westguard Insurance Co.*), **Ohio** (Anne Marie Sfera - *Bricker Graydon LLP*), **Oklahoma** (Kari Hawthorn - *Johnson Hanan Vosler Hawthorne & Snider*), **Pennsylvania** (Lisa Bellino Apelian - *Zurich North America* and Jason Banonis - *Marshall Dennehey*), **Rhode Island** (Brooks Magratten - *Pierce Atwood*), **Texas** (Slater Elza - *Underwood Law Firm*), **Utah** (Sarah Elizabeth Spencer - *SpencerWillson PLLC*), **West Virginia** (Michael Schulz - *Babst Calland*), and **Wisconsin** (Nicole Marklein - *Cross Jenks Mercer & Maffei LLP*).

### Other News

The Center has **testified** and actively supported amendments to Federal Evidence Rule 702, seeking clarification of how courts should address the issue of whether an expert is qualified to offer opinions and whether the basis for the opinion is sufficient to allow the opinion and data to be admitted. On July 20, 2023, the Center held a **free webinar** briefing DRI members on this amendment, how it should be used in federal court, and how this clarification of Rule 702 can also be used to control expert testimony in state courts. On December 1, several amendments to the Federal Rules of Evidence **took effect**, including the changes to Federal Evidence Rule 702.

Launched on December 1, "**Don't Say Daubert**" is a **joint project** of Lawyers for Civil Justice, DRI, International Association of Defense Counsel, and Federation of Defense & Corporate Counsel, dedicated to reforming federal and state civil rules governing the admission of expert evidence in civil courts.

The Center also recently joined **a coalition comment** to the Supreme Court of Ohio's Commission on the Rules of Practice & Procedure in support of a proposed amendment that would align Ohio Rule of Evidence 702 more closely with its updated federal counterpart, Federal Rule of Evidence 702, 2023 Amend. (effective Dec. 1, 2023).

The Center's State Legislation and Rules Task Force is **ready to work with** any SLDO interested in proposing or supporting amendments to their state legislation or rules consistent with the changes to Federal Rule 702. To learn more, **read the Rules Package for the Rules of Evidence** and **copy of the new rules** reflecting what has changed.

Notably in 2023, at the request of the Defense Association of New York, the Center submitted a letter to New York Governor Hochul's

office in support of DANY's opposition to the enactment of proposed amendments that would expand who is eligible to seek damages for pain and suffering (i.e., NY's "Grieving Families Act"). On January 30, Governor Hochul vetoed the enactment of the amendments.

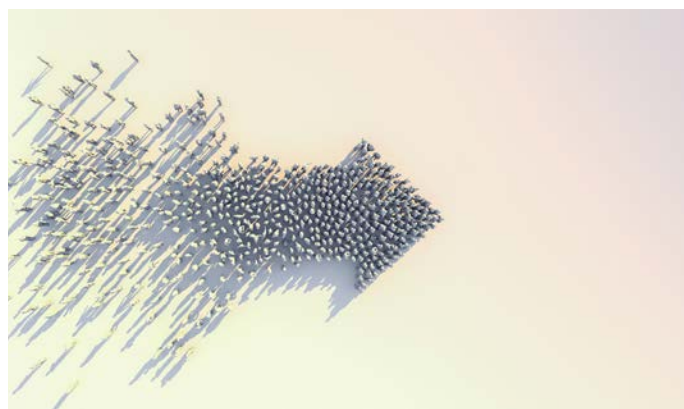
The Center's **MSP Task Force** held an **MSP 101 webinar**, which addresses Medicare Secondary Payer fundamentals that every claim professional and defense attorney should know. In this course, MSP Task Force members **John Cattie** (*Cattie and Gonzalez*) and **Bruce Craner** (*Milling Benson Woodward LLP*) walk listeners through a refresher on all things MSP. DRI members can access this webinar on demand through the **DRI Learning Center**.

The Centers for Medicare and Medicaid Services (CMS) has finalized and published the rule, for Section 111 reporting, specifying how and when it will calculate and impose civil monetary penalties (CMPs) when Group Health Plan (GHP) and Non-Group Health Plan (NGHP) Responsible Reporting Entities (RREs) fail to meet their

Medicare Secondary Payer (MSP) reporting obligations. To assist DRI members and their clients, the **MSP Task Force** published a **detailed summary** of the newly published rule, which took effect on December 11, 2023.

Finally, the **MSP Task Force** has new leadership. **Judy O'Grady** (*Pepper Hamilton*) is now task force chair and **Barrye Miyagi** (*Taylor Porter*) is now vice chair. Many thanks to **John Morganstern** (*O'Hagan Meyer*) for his years guiding the task force, which he will continue to serve as immediate past chair.

The Center has also **submitted a letter** to the **Judicial Conference's Committee on Rules of Practice and Procedure** proposing that Federal Rule of Appellate Procedure 29(a) be amended. The Supreme Court recently amended its Rule 37, effective January 1, to eliminate the consent/permission requirement for both petition-stage and merits-stage amicus briefs.



## Public Policy Committee

The **Public Policy Committee** is charged with examining topics that are of importance to DRI members and seeks to identify and respond to issues that threaten the ideal of fundamental fairness and the very practice of law itself. Its task forces and working groups examine policy issues of broad applicability as requested by the DRI Executive Committee and the Center's Management Council. They generate white papers for publication, present at DRI meetings and seminars, and work with SLDs as they face important policy questions. The **Public Policy Committee** includes task forces and working groups on social inflation/legal system abuse, artificial intelligence, data privacy and protection, third-party litigation funding, nonlawyer ownership of law firms, and climate change and sustainability.

### New Appointments, Subcommittees, and Task Forces

The Center's **Artificial Intelligence Working Group** welcomed **Kevin McCarthy** (*Larson King*) as chair, and **Brett Tarver** (*Troutman Pepper*) as vice chair. Kevin and Brett are joined by new working

group members **Christian Castile** (*Reed Smith*), **Laura Clark Fey** (*Fey LLC*), **Garrett Greene** (*Bowman and Brooke*), **Meredith Hamilton** (*Ogletree Deakins*), **Noah Mason** (*Locke Lord LLP*), and **Jin Yoshikawa** (*Butler Snow*).

The Center's **Data Privacy and Protection Working Group** appointed vice chair **Sean C. Griffin** (*Dykema Gossett PLLC*) and members **Brent J. Arnold** (*Gowling WLG*), **Josh Devaney** (*Kennedy & Graven*), **Colton Driver** (*Bass Berry & Sims PLC*), **Barry S. Herrin** (*Herrin Health Law*), **Maxwell McDaniel** (*Modern Woodmen of America*), **Richik Sarkar** (*Dinsmore & Shohl LLP*), **Tobias Schelinski** (*Taylor Wessing*), and **Henry Sneath** (*Houston Harbaugh LLP*). **Laura Clark Fey** (*Fey LLC*) serves as chair of the working group.

**Baxter Drennon** (*Hall Booth Smith*) is now the vice chair of the Center's **Public Policy Committee**.

**Chris Turney** (*Turney LG*) and **Lauren Motes** (*Dinsmore & Shohl*) were appointed chair and vice chair, respectively, of the Center's **Social Inflation Task Force**. Task force members include **Lisa Bellino Apelian** (*Zurich North America*), **Tracee Allen** (*NAMIC Insurance Co. Inc.*), **Shari Belitz** (*Shari Belitz Communications LLC*), **Michael Callahan** (*Eversource Energy*), **Jeffrey Ditmar** (*Atain Insurance*), **Collin Hite** (*Markel, Inc.*), **Catherine Leatherwood** (*Rogers Townsend LLP*), **Claire Maisano** (*Evert Weathersby Houff*), **Juan Marquez** (*Rodey Law Firm*), **Eric Passeggio** (*Sulloway & Hollis PLLC*), **Peter Querubin** (*TM Claims Service, Inc.*), **Mahima Raghav** (*Zurich Insurance Company*), and **Jim Robinson** (*Hite Fanning & Honeyman*).

**Danielle M. Waltz** (*Dinsmore & Shohl LLP*) **was appointed** as vice chair of the Center's **Third-Party Litigation Task Force**. Joining Danielle are new task force members **Pat Eckler** (*Freeman Mathis & Gary*) and **Michael Goodin** (*Zurich Insurance Company*). The task force is chaired by **David Levitt** (*Hinshaw & Culbertson*).





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## AMICUS WINS IN 2023

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In 2023, the Center filed numerous amicus briefs where the court issued an opinion adopting the position advocated by and in alignment with the Center, including in:

- ◆ The U.S. Supreme Court supporting the petitioner in ***Dupree v. Younger***, No. 22-210. **The brief** was authored by **Matthew T. Nelson, Charles R. Quigg, and Katherine G. Boothroyd** of *Warner Norcross + Judd LLP*. The Court agreed with the Center, holding that a post-trial motion under Federal Rule of Civil Procedure 50 is not required to preserve for appellate review a purely legal issue resolved at summary judgment.
- ◆ The U.S. Supreme Court where certiorari was granted in ***Acheson Hotels, LLC v. Laufer***. **The brief** in support of certiorari in this case, involving ADA “test” litigation and standing, was authored by **Sarah Elizabeth Spencer** of *Christensen & Jensen Attorneys* and Center Chair and *Atlantic Legal Foundation* Executive Vice President & General Counsel **Larry Ebner**. This brief was **quoted in an article published on Law360.com**. The Center subsequently joined the Atlantic Legal Foundation’s **brief on the merits** in ***Acheson Hotels, LLC v. Laufer***.
- ◆ The Supreme Court of New Hampshire in ***Brown, et al. v. Saint-Gobain Performance Plastics***. The brief, calling for the rejection of claims for medical monitoring absent present physical injury, was authored by **Mary Massaron** of *Plunkett Cooney*, filed by the Center, and joined by the Tri-State Defense Lawyers Association and the Washington Legal Foundation.
- ◆ The U.S. Supreme Court in ***Coinbase, Inc. v. Bielski***, where the Court ruled 5–4 in favor of Coinbase, Inc., thus allowing Coinbase to continue its effort to compel arbitration against members of a putative class action lawsuit, meanwhile halting the lawsuit’s progress through the federal court system. The Center had previously filed an **amicus brief**, authored by **Sarah Elizabeth Spencer** (*Christensen & Jensen Attorneys*), advocating for the ruling that the Supreme Court issued.
- ◆ In the Colorado Supreme Court, where the Center **joined a successful coalition amicus brief**—filed by the U.S. Chamber of Commerce and joined by the Colorado Association of Defense Lawyers, among others—in ***In Re Antero Treatment LLC***. The case involved a constitutional challenge to a statutory appeal bond cap enacted by the Colorado legislature, which would limit the amount of an appeal bond to \$25 million regardless of the size of the verdict. On December 4, the Colorado Supreme Court issued an order determining that Colorado’s appeal bond cap statute is indeed constitutional and rejecting all of the challenges to both the statute and the trial court’s application of the statute in this case. The brief was authored by DRI member **Lee Mickus** of *Evans Fears & Schuttert*.

# WHITE PAPERS AND REPORTS IN 2023



## SOCIAL INFLATION - LEGAL SYSTEM ABUSE

*Observations and solutions to support the right to fair and impartial dispute resolution*

John C.S. Pierce  
Michael K. Callahan  
Catherine Ava Leatherwood  
Lauren E. Motes  
Andrew Pauley  
F. James Robinson, Jr.  
Christopher B. Turney



One of the most important functions of DRI is research on issues of importance to the defense bar. This research is generally carried out by the Center and is embodied as either background materials or a more formal white paper. Either can serve one of two purposes depending upon DRI's institutional perspective. One, on an issue in which DRI takes no formal position, they provide information background to educate our members on the topic allowing them to form their own conclusions. Two, on issues in which DRI has taken an organizational position, they form the intellectual basis for DRI's advocacy.

The Center's latest white paper, **Social Inflation – Legal System Abuse**, addresses social inflation and legal system abuse. Produced with strategic partner **National Association of Mutual Insurance Companies (NAMIC)**, the paper examines and recommends model rules that courts are using to increase transparency and help level the playing field.

The Center joined a coalition of organizations as signatories to **a letter to the Committee on Rules of Practice and Procedure** in further support of the pending proposal to amend Fed. R. Civ. P. 26(a)(1)(A) (v) that would mandate disclosure of third-party litigation funding (TPLF) agreements. **David Levitt** (*Hinshaw & Culbertson*), Chair of the **Center's Third-Party Litigation Task Force**, subsequently submitted a **supplemental letter** to the committee to provide additional considerations consistent with the positions advocated for in the Center's white paper, **Third-Party Litigation Funding: Civil Justice and the Need for Transparency**.

In the September issue of *For The Defense*, **Chris Turney** (*Turney LG*), who chairs the Center's **Social Inflation Task Force**, also teamed with task force member **Eric Passeggio** (*Sulloway & Hollis*) to publish **"Anchoring a Verdict Without Angering the Court,"** which assessed a recent Supreme Court of Texas holding that made the most definitive rejection of the practice of damages anchoring to date.

They were joined in the September *FTD* by fellow task force member **Lisa Bellino Apelian** (*Zurich U.S.*), whose article **"The Cost of Doing Business: Jurisdiction by Consent Under *Mallory v. Norfolk Southern Railway Co.*"** discussed the overwhelming implications and "intolerable unpredictability" resulting from the U.S. Supreme Court's recent opinion.



## NONLAWYER INVESTMENT IN THE LEGAL ECONOMY

Marta-Ann Schnabel  
Susan E. Gunter  
Thomas J. Hurney, Jr.



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# MAKING THE MOST OF THE CENTER

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The Center for Law and Public Policy provides the most effective voice for the defense bar in the discussion of substantive law, judicial process, constitutional issues, and the integrity of the civil justice system at both the national and state levels.

Join the effort to defend justice and fairness through promotion of an equitable legal system and protect the interests of business and individuals. The following Center task forces and working groups are looking to add members to their teams:

- ◆ Appellate Litigation and Trends
- ◆ Climate Change and Sustainability
- ◆ Third-Party Litigation Funding
- ◆ Nonlawyer Ownership of Law Firms
- ◆ Artificial Intelligence
- ◆ Data Privacy and Protection
- ◆ AI
- ◆ Federal Rules
- ◆ State Legislation and Rules
- ◆ Social Inflation

Stay up to date with the Center's projects and initiatives for the benefit of DRI members, their clients, the business community, consumers, and principles of judicial economy by reading the Center newsletter--created in 2023 and sent to all DRI members quarterly--and by following the DRI Center for Law and Public Policy on [LinkedIn](#) and [X \(Formerly Twitter\)](#).



*John C.S. Pierce speaks at the All About The Center for Law & Public Policy meeting at DRI's 2023 Annual Meeting*



*Center Director Jay Ludlam and Center Chair Larry Ebner at DRI's 2023 Annual Meeting*



Learn more about the Center's projects and initiatives for the benefit of DRI members, their clients, the business community, consumers, and principles of judicial economy:

Looking for more news on the Center? Follow the [DRI Center for Law and Public Policy](#) on [LinkedIn](#) and [X \(Formerly Twitter\)](#) for the latest updates.



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# TESTIMONIALS

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*“The Center is one of DRI’s crown jewels and the very tip of the spear of what we do as an organization. You make all of us at Locke Lord LLP very proud.”*

**Toyja Kelley**, Past DRI and Center President

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*“The Center is really one of the best things that DRI does . . . Thank you to the Center for all the work you do on behalf of all of us on the defense side.”*

**Lana Olson**, DRI Immediate Past President

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*“It’s exciting to see the Center continue to grow, particularly with this powerhouse team.”*

**Jill Cranston Rice**, DRI Second Vice President

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*"THE CENTER IS A  
TREMENDOUS VALUE-ADDED  
BENEFIT FOR EVERY LAWYER  
WHO BELONGS TO DRI."*

LARRY EBNER, CENTER CHAIR

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