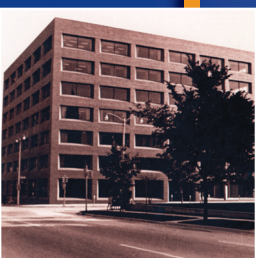
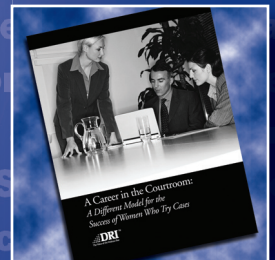


A History

of **DRI**™
The Voice of the Defense Bar

Serving the Defense Bar





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Chicago, Illinois 60601

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Preface

THE 45-YEAR HISTORY OF DRI encompasses many years of effort by dedicated lawyers who saw the need for a coordinated approach by defense lawyers to the challenges of a civil defense practice. They created the organizational vehicle to drive this effort and then nurtured the organization to maturity and success. Hundreds of lawyers have labored hard and long to make DRI the organization it has become.

The emphasis in this short history is on the activities, goals, and missions of DRI as the national voice of the defense lawyer. The history reflects the changing legal climate of the past half-century in the United States, developing trends and issues, and how DRI has responded to such changes.

The history illustrates that DRI's success has resulted primarily from the devotion and dedication of its individual members, especially those who have held positions of leadership in the organization. DRI has also benefited from the support of segments of the insurance industry and other corporate entities. In its formative years, DRI's path to success was blazed by its original sponsor, the International Association of Insurance Counsel, and the cooperation of the Federation of Insurance Counsel and the Association of Insurance Attorneys. Now, in 2005, no longer dependent on the support of its founders, DRI has become a vigorous association of lawyers and others, truly "The Voice of the Defense Bar."

A portion of this history is derived from *The Defense Research Institute: A History: 1961–1995*, a book written by James D. Ghiardi and Lisa K. Peters, and published in 1996. It is a comprehensive treatment of the birth and original organization of DRI as well as its activities in its early years. The current history also borrows from a brief account written by Donald J. Hirsch, which appeared in the December 2000 issue of *For The Defense*.

The project to prepare an up-to-date history was suggested by DRI's President in 2004–2005, Richard T. Boyette. He viewed the history as indispensable reading for all DRI members, and especially for future leaders of the organization: understanding and appreciating DRI's past is an essential element of preparing for its future. John Kouris, DRI's Executive Director, and Tyler Howes, the Deputy Executive Director, organized the staff effort to research, write, and produce the book. Mr. Kouris also reviewed the draft manuscript thoroughly, added important insights, and offered many helpful suggestions. Julia Bergerud, DRI's Production Manager, led the production process and applied her creativity to the design and artwork. Donald Hirsch and Margaret Connolly provided important editorial review and production assistance.

This history has been compiled from a variety of written materials including DRI publications, correspondence, and its files and records. Rough drafts have been improved immeasurably by review and suggestions from many DRI leaders, including most of the living Past Presidents, who generously gave insight into many of the trials and tribulations that had to be overcome. They shared their personal memories, all of which contributed to the breadth and depth of the history.

Davidson Ream is the principal author of this book. A graduate of Yale University and the University of Virginia Law School, Mr. Ream has spent a career in the fields of information and publications for practicing lawyers. From 1984 to 2004, he served as Editor of *For The Defense*, DRI's monthly magazine; in addition, he has researched and written major works for DRI. Now in retirement, he continues to write and edit legal materials.

Organizing a New Defense Effort

Need for a Voice to Counter Plaintiffs' Attorneys

ALTHOUGH DRI WAS FORMALLY ORGANIZED as the Defense Research Institute in 1960 its antecedents go back to the end of World War II in 1945. In that year, plaintiffs' attorneys began to clamor publicly for the "more than adequate award" in civil litigation. Their campaign was spearheaded by the National Association of Claimants Compensation Attorneys (NACCA), now renamed as the Association of Trial Lawyers of America (ATLA).



While defense attorneys continued to handle the defense of individual claims in a traditional, time-proven manner, plaintiffs' lawyers began to use new tactics and fashion novel arguments to boost the amount of awards. "Whiplash" damages were rising, and the misnomer became a household word. Extravagant *ad damnum* claims were influencing verdicts of juries. Blackboard arguments and other hitherto unknown courtroom tactics were inflating the damages for "pain and suffering" to astronomical amounts. Contingent fees grew disproportionately, and legal liability was being extended beyond the bounds of reason. On the legislative front, plaintiffs' representatives began to appear before legislative committees to seek expanded liability while opposing any sort of reform in the personal injury law.

Defense lawyers recognized the growing danger and the harmful impact that excessive awards would have on the civil justice system, but they were not effectively organized to counter the NACCA's activities. By the early 1950s, it was apparent that conscientious and able defense of cases in court was not enough. A few state and local defense organizations were established, state insurance information services grew in number, the *Defense Law Journal* was launched, and legal scholars began to write about the growing problem of mounting personal injury costs. These efforts were welcome. But what was really needed was a comprehensive and continuing education program that would provide in-depth treatment and solid legal research on topics related to the defense of civil actions.

Planning Activities of Defense Groups

A FEW NATIONAL DEFENSE LAWYER associations, with a membership of volunteers, did exist prior to the post-World War II era. They included the Section on Insurance Law of the American Bar Association, the International Association of Insurance Counsel (IAIC), the Association of Insurance Attorneys (AIA), and the Federation of Insurance Counsel (FIC). (Each of these groups has modified its organizational name in later years.) However, by and large these volunteer groups did not concern themselves with, nor did they have the professional staff to undertake in-depth legal research, continuing education or other approaches designed to assist defense lawyers to counter the aggressive activities of the plaintiffs' bar.

By 1952, at least one of these groups, the IAIC, realized that the most effective means of countering the inroads of plaintiffs' groups would be through a mas-

sive, many-sided program of information and education. This program would involve not only the defense bar, the insurance industry, and other target defendants, but also the general public so that the latter group would understand that liability insurance was for their own protection and that high verdicts were paid for by “hometown” dollars. The IAIC’s initial step was to form its Industry Relations Committee to study the problems presented by the growth in size and number of personal injury claims. IAIC leaders saw the potential of coordinating activities of this sort with other defense groups. The goals were to organize a joint effort to establish an effective force that would advocate for the interests of defense lawyers and to overcome the general inertia in the insurance defense bar toward reform and change.

The problems facing defense lawyers were clear; how to counter and/or resolve those problems was a subject that was pursued at virtually every meeting of the IAIC and other defense groups in the mid- and late-1950s. The groups’ leaders began to channel and coordinate the varying ideas put forth at these meetings; slowly, they began to accept the fact that they should form a separate organization with its own professional staff to pursue their informational and educational goals.

The Birth of DRI in 1960

IN JANUARY 1960, AT ITS annual meeting in Scottsdale, Arizona, the IAIC made some key decisions. First, the group’s leaders agreed that they were unwilling to change the essential character of their organization; it would continue to limit its membership to a fixed number of skilled and experienced defense lawyers. Second, it decided to form a separate and more broadbased organization to be named the Defense Research Institute—DRI was born. Third, it appointed a special committee of IAIC members to implement the organization of DRI.

For DRI’s first project, the IAIC leaders decided to immediately begin producing a monthly newsletter that would track developments in civil litigation of special interest to defense lawyers, and that this newsletter would be named *For The Defense*. The first issue of *FTD*, consisting of eight pages, was published in March 1960. Its first volunteer Editor was William E. Knepper, an IAIC member who later served as President of DRI. The first Managing Editor, the person bearing the primary load for producing the newsletter, was Professor Robert W. Miller, Dean of Syracuse University College of Law.

Because *For The Defense* was the only real activity of DRI in its first months, it was natural that the organization’s work be centered in Dean Miller’s office in Syracuse. The first paid employee of DRI was Charles A. Lee, Jr., of Syracuse University; he was appointed General Manager. The administrative work of DRI was done in Syracuse until 1962, when the headquarters were moved to Milwaukee.

In the first issue of *For The Defense* in March 1960, the magazine described itself as a publication “to enhance the knowledge and improve the skills of defense lawyers,” a phrase that was placed in the heading of the newsletter. It also laid out the



William E. Knepper



Robert W. Miller

nucleus of the program whose goal was to unite the defense effort. The monthly magazine's focus today is the same as it was in 1960—an emphasis on defense strategies and tactics and analysis of legal trends of concern to the defense lawyer. It is still the flagship publication of DRI, the one piece that every DRI member can count on receiving every month without fail.

The content of the first issue of *FTD* was typical of the defense-oriented approach that has always characterized the publication. The threat of no-fault reparations under a government bureau was exposed. The demonstrative trial tactics of flamboyant plaintiffs' lawyers such as Melvin Belli were analyzed. An important segment of the newsletter was analyses of recent court decisions that could have far-reaching consequences for the defense. Thus, from its beginning, *For The Defense* has served an avowed purpose of DRI—to educate defense attorneys so that they might be of greater service to their clients and to the public.



At its meeting in Atlantic City, New Jersey in July 1960, the IAIC took steps to implement its January decision to form DRI. With reports and recommendations from the special committee it had appointed in January, the IAIC members agreed, on July 6, to the incorporation of the Defense Research Institute as a non-profit, non-stock corporation under the laws of Wisconsin. The original articles of incorporation were filed on August 30, 1960 in the names of two IAIC members from Wisconsin, John A. Kluwin of Milwaukee and George McD. Schlotthauer of Madison. A total of \$15,000 “seed money” was appropriated by the IAIC for DRI activities, with \$3,000 set aside to produce the first six issues of *For The Defense*.

DRI was now a formal entity and not merely a gleam in the eyes of IAIC members who believed that the defense bar needed an organization whose educational and informational activities would counter the tactics of plaintiffs' lawyers.

The selection of the name, Defense Research Institute, was the result of serious deliberation and much discussion. The attitude of the IAIC was that DRI should not be a lawyers' association that would have meetings, social gatherings, and similar activities. Rather, it was to be in effect the research arm of the IAIC and other existing defense groups. Yet, all agreed at the time that its activity should not be limited to research. The emphasis was to be on education in its broadest sense, and thus the label Institute was selected. Another consideration in selecting the name was the fact that the organization would probably have sustaining members from outside of the legal profession; the word Institute would avoid any suggestion that this was strictly a lawyers' association.

The matter of finding the best and most appropriate name for the organization has continued to be an issue, especially during the 1980s, for reasons discussed more fully below. For a time, the label “Defense Research and Trial Lawyers Association” was favored by many DRI members, but no formal action to change the original name has yet been taken.

Another early problem was the pronunciation of the shorthand name. Some wanted to call it “DRY.” That idea was rejected; the leaders worked hard to eliminate such a desolate approach and successfully got people to refer to the organization by its three separate initials—“D-R-I.”

Initial Statements of Missions and Goals

IT WAS AT THE ATLANTIC City meeting of the IAIC in July 1960 that specifics of the DRI course of action were outlined, later to be stated in the Purpose Clause of the Articles of Incorporation:

The purpose or purposes for which said corporation is organized shall be to promote improvements in the administration of justice and enhance the service of the legal profession to the public; to support and work for the improvement of the adversary system of jurisprudence in the operation of the courts; to encourage the prompt, fair and just disposition of tort claims; to enhance the knowledge and improve the skills of defense lawyers; to advance the equitable and expeditious handling of disputes arising under all forms of insurance and surety contracts; to work for the elimination of court congestion and delays in civil litigation; to cooperate with programs of public education directed toward highway safety and the reduction of losses and costs resulting from highway and other casualties; and to carry on other related and similar activities in the public interest.

This essence of this initial purpose clause remains the same after 45 years. It illustrates the active role envisioned by the founders of DRI.

At a later date, these early statements of principle were refined and expressed in a more precise thirteen-point program:

- 1) to encourage prompt and adequate payment of every just claim and effective resistance to every non-meritorious, fraudulent, or inflated claim;
- 2) to encourage clients to resist the “nuisance” claim so that such claims will be discouraged in the future;
- 3) to continue to support the principle of liability based on fault only and unwaveringly to oppose its erosion;
- 4) to publicize the relationship of non-meritorious claims to the delay of legitimate litigation;
- 5) to publicize the relationship of non-meritorious claims and excessive demands to increased insurance premiums;
- 6) to advocate the preservation of the jury system in all civil litigation;
- 7) to advocate dignity in the courtroom with emphasis on the facts, the law, and high standards of trial practice, rather than on emotional appeals based on sympathy and prejudice;

- 8) to develop a program to assure that expert witnesses adhere to the highest standards of their respective professions;
- 9) to advocate the regulation of the contingency fee system and fee-splitting among attorneys in order to eliminate abuses;
- 10) to advocate the elimination of multiple recoveries for the same disability or damage;
- 11) to promote an expanded speakers bureau to participate in law schools, bar associations, institutes, and other programs;
- 12) to promote an educational program for news media, to the end that the public may be presented with the true image of the tort claim situation in this country; and
- 13) to develop local defense groups in each state and in each metropolitan area to implement these aims, and to keep these groups adequately informed as to their proper function in helping to carry them out.

The above statements of DRI's missions and goals are as relevant in 2005 as they were in 1960. They continue to guide the organization toward its objectives, albeit in language that has been modified over the years.

The IAIC group that gathered in Atlantic City in 1960 also laid out DRI's legal philosophy, which is focused on the concept of responsibility:

The program of the Defense Research Institute is established on principles of responsibility. Business and industry have a responsibility toward injured persons, but also have a responsibility to their investors, employees, shareholders, customers, and owners of property. Any legal philosophy that is entirely one-sided and which flouts the rights of defendants merely to allow greater recoveries of money by injured claimants is an irresponsible philosophy and must be combated. The responsible legal philosophy for which DRI stands is that liability must be based on fault, that fault can be established only by competent evidence, that an award should be limited to compensation for actual injury, and that amounts of all awards must be fair, moderate, and reasonable.

Other official statements made in 1960 indicate clearly the extent to which DRI intended to make its force felt as the "national voice of the defense bar":

The intent of the Defense Research Institute is to weld the voices and the rights of all defendants who face lawsuits seeking cash awards into a cohesive force which will properly have its day in and outside the courtroom. The end is to retain the present adversary-jury system and to improve that system so there is justice—for both plaintiff and defendant alike.

competent evidence

responsibility
FAIR
reasonable

Structuring the New Organization

WITH STATEMENTS OF PRINCIPLE ADOPTED and goals established, the founders of DRI took another important step—naming of Officers to lead the infant organization. It was agreed that all Officers and members of the Board of Directors would be practicing defense lawyers—a standard that has not varied in the following forty-five years. Chosen as DRI’s first President was Stanley C. Morris. Lewis C. Ryan was the first Vice President, and George McD. Schlotthauer was selected to be Secretary-Treasurer. Other members of the new Board of Directors were Forrest A. Betts, Kraft Eidman, Denman Moody, William E. Knepper, Charles E. Pledger, Jr. and Wayne E. Stichter. All of the initial Officers and Directors were part of the small IAIC “core” that founded DRI; open election of DRI leaders did not occur until the 1990s.



Stanley C. Morris



Lewis C. Ryan



Josh H. Groce



James D. Ghiardi

Following Stanley Morris in the President’s seat were Lewis Ryan and Josh H. Groce; the latter served in that position for three-and-a-half years, until January 1965, the longest tenure of any DRI President.

In 1966, DRI recognized the three men who played the most significant roles in starting DRI. It presented the first Distinguished Service Awards to Stanley Morris, Charles Pledger and Josh Groce. Many other lawyers contributed ideas and lent support to the founding of DRI: Milton A. Albert, J.D. (Pat) Carey, Lestor P. Dodd, Raymond N. Caverly, E.A. (Mike) Cowie, E.D. Bronson, C.A. Des Champs, R. Newell Lusby, Royce G. Rowe and Gordon Snow.

Beyond selecting leaders, one of DRI’s early concerns was an appropriate financial base for the fledgling organization. In its earliest months, much of the operation was carried out by volunteers. Beginning immediately after the 1960 organizational meeting in Atlantic City, the Officers and Directors began contacting defense law firms throughout the country, soliciting financial contributions. 173 firms became “Sponsors” of DRI in 1960, contributing \$50,000 to fund the start-up. Much of this amount was spent on administrative costs at Dean Miller’s and Charles Lee’s offices on the Syracuse campus as well as support for the early issues of *For The Defense*.

From the time in the 1950s that the idea of a defense organization was first discussed, it was recognized that in order to conduct helpful research on defense themes, produce education and information of the highest quality and coordinate the defense effort, a permanent professional staff and headquarters were essential. In 1962, during Josh Groce’s presidency, the position of Research Director was created, and a nationwide search was conducted to find appropriate candidates. Eventually, Professor James D. Ghiardi of Marquette University’s Law School in Milwaukee, a leading and well-respected scholar of tort and insurance law, was selected. All agreed that Professor Ghiardi would retain his faculty position at Marquette and that he would assume the combined duties of an executive director and a research director, under the latter title.

With the appointment of Jim Ghiardi in the summer of 1962, the DRI headquarters was moved from Syracuse to Milwaukee. He quickly hired an executive secretary; other professional and support employees were added in the first few months. The ingredients that all agreed were necessary—a paid staff committed to DRI and a permanent headquarters—had now been accomplished, lifting DRI to an entirely new level. It was now in a position to channel the talents and resources of both staff and members into projects including *For The Defense* that would espouse the defense position.

Membership and Governance in the Early Years

DRI HAS NOT ALWAYS BEEN an open membership organization, governed through a structure based on a large body of individual members.

Originally, DRI, as specified in the By-Laws, had three classes of members: Active, Associate, and Sustaining. “Associates” were true individual members, mostly defense lawyers, and “Sustaining” were companies, especially from the insurance and manufacturing sectors. The real governing power, however, was with the “Active” members—a group that was initially limited to twenty-four: the three Officers of DRI (President, Vice President, Secretary-Treasurer), two appointees each from the Federation of Insurance Counsel (FIC) and the Association of Insurance Attorneys (AIA), and seventeen appointees from the International Association of Insurance Counsel (IAIC), most of whom were from the IAIC Executive Committee. Also known as the Voting members, the Active members decided who should lead DRI and how the organization should be run.

The all-powerful role of the Active members is a crucial point to bear in mind in understanding the history. The DRI Board of Directors had plenary power to accomplish everything necessary to manage the affairs of the organization—but with three major exceptions:

- the election of Officers, Board members, and Regional Vice Presidents;
- the amendment of By-Laws; and
- the setting of dues.

These powers were essentially reserved for the twenty-four IAIC Active members.

In 1965, the number of Active members grew a bit by adding the Immediate Past Presidents of the FIC and the AIA. The Chairman and Vice-Chairman of the Defense Research Committee of the IAIC were also added at that time.

In the 1960s, the Board of Directors consisted of six *ex-officio* representatives of the three national defense lawyer associations—the IAIC, the FIC, and the AIA. The Board also included twelve members elected by the Active members. The Officers and Board were aided by nine Regional Vice Presidents; in 1965, a tenth Regional VP was added, and all Regional VPs were made *ex-officio* members of the Board.

The Regional Vice President positions provided more leadership for the defense effort. They gave particular attention to state and local defense organizations (SLDOs), speakers' bureaus, and insurance information services in their regions. The DRI administrative chain in the 1960s also included 78 state and area chairmen who represented DRI locally and actively pursued new Associate and Sustaining members. 1966 saw the first of a series of regional meetings bringing together Regional VPs and State and Area Chairmen.



William T.
Birmingham

While the IAIC clearly controlled DRI, the other two national groups, FIC and AIA, cannot be ignored; they did have some measure of power and influence. And they did not necessarily walk in lockstep with the IAIC. From time to time over the years, the FIC and the AIA would disagree with certain actions taken by the IAIC. Or, they would successfully push one of their number to the DRI Presidency—William T. Birmingham, an AIA stalwart, for instance, was President in 1984. Ultimately, the two groups “revolted” against the IAIC and supported DRI in its movement toward independence in the late 1980s and early 1990s (see pages 43–48).

All decisions about DRI programs and other activities were made by the Officers and Board of Directors. Structurally, they worked through a handful of Board committees, including an Executive Committee, a Finance and Budget Committee, a Publications Committee, a Publicity Committee, a Law Schools Committee, a Medical Cooperation Committee, and the Local Defense Groups Committee. Their directives and desires were transmitted to the Milwaukee-based staff for implementation. By 1970, the staff under Professor Ghiardi had grown to 14 full-time employees, two academic consultants, and a few Marquette law students.

By the end of 1961, DRI's first real year of existence, its membership included 2,020 individual defense lawyers and 182 insurance companies. A major concern at DRI Board meetings was the need to increase these numbers. Efforts were made to solicit all members of the IAIC and the FIC to become dues-paying members of DRI. These concerns became moot in November 1964, when the IAIC acted to have all of its individual members automatically become Associate members of DRI. This was followed by similar action by the FIC in December 1965 and by the AIA in July 1968, giving DRI a solid and certain membership—and thus financial—base. In addition, membership campaigns increased in number and intensity so that by 1970 the promise of “welding the defense effort” was beginning to be realized.



By the end of 1961

2,020 individual defense lawyers
182 insurance companies

By the end of 1970

5,451 individuals
241 insurance companies
126 other corporations

Total membership figures by the end of 1970 showed that 5,451 individuals, 241 insurance companies, and 126 other corporations were participating in and benefiting from DRI's programs and services. In addition, insurance industry trade associations provided extra resources and financial support to the growing organization.

The Beginnings of Programs for Defense Lawyers

ONCE THE STRUCTURE OF DRI Officers, Board of Directors, and staff was in place by the early 1960s, the organization was ready to develop programs to carry out the broad aims envisioned by the founders. These aims included (1) improvement of defense lawyers' skills through education and information, (2) promotion of the public's interest in matters related to tort and insurance law, and (3) improvements in the administration of justice. The decade of the 1960s saw the initiation and development of programs designed to carry out these aims.

At the same time that DRI was being organized and its overall program being shaped, a number of changes and trends were occurring that would have a great impact on that program. The proponents of automobile "no fault" were beginning to take an aggressive posture. Section 402A of the *Restatement (Second) of Torts* was approved and disseminated by the American Law Institute, giving widespread legitimacy to the concept of strict liability in products litigation. Movements under the guise of "judicial reform" aimed at abolishing jury trials were beginning to surface.

Thus, the immediate need facing the new organization was to respond to these trends. The response was through education, research, publication, and service programs.

A Steady Stream of Publications

THROUGHOUT THE 1960S, DRI HAD a busy publications program. *For The Defense*, under the continuing editorial direction of Dean Robert Miller in Syracuse, was published every month and sent to all DRI members and other interested parties (including judges and law schools); circulation reached 13,500 by 1970. It was an eight-page newsletter during this period, containing analysis of legal trends, spotlights on particular activities of the plaintiffs' bar, and statements of policy by DRI Officers. *FTD* had become an effective means of communicating with the membership and others interested in defense matters. The quality, variety, and value of its content grew in proportion to the expanded activity of the Officers, Board, and staff.

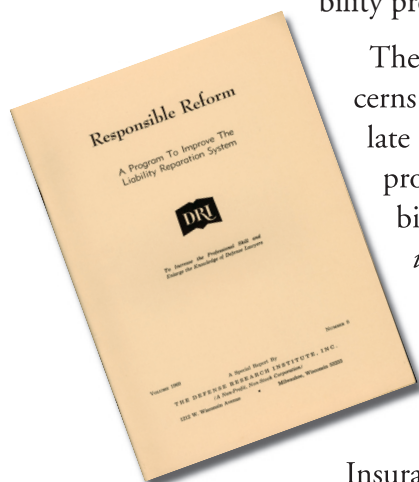
In addition to *FTD*, DRI produced a series of monographs—paperback books of varying length that analyzed difficult but important legal themes. Later, in the early 1980s a series of "special publications" was initiated. Monographs and special publications had a similar physical appearance. The distinction between the two categories was that monographs dealt with issues of broad general interest to defense practitioners and were distributed automatically and free of charge to all DRI members, while special publications examined more narrow, specialized matters and were distributed only to those members with an expressed interest in the particular subject matter. Whether labeled monographs or special publications, they scrutinized issues related to plaintiffs' tactics, such as "whiplash" injury, *ad damnum* prayers, reliability of economists' testimony, seat belt liability, punitive

public's interest
JUSTICE
skills
improvements

■■■■■
***FTD* circulation
reached 13,500
by 1970.**

damages, contingent fees, and questionable arguments for “pain and suffering” damages. Another type of monograph/special publication focused less on tactics and more on trends in the law that would have impacts on defense lawyers. These books examined insurance law, medical malpractice, product liability, professional liability, workers’ compensation, fidelity and surety law, and litigation practice and procedure.

Other publications advocated for the retention of the jury-adversary system of resolving disputes, informed corporate executives on product liability matters, assisted medical expert witnesses, and analyzed and critiqued various no-fault liability proposals.



The agitation for a system of no-fault liability was one of the primary concerns of the defense bar in DRI’s early years. This concern culminated in the late 1960s with two key publications that were the basis for a DRI action program to retain and improve the adversary-jury process of the tort liability system. Principles to improve the system were enunciated in *Justice in Court After the Accident* (1968). These principles were then applied to produce an eleven-point position paper, *Responsible Reform—A Program to Improve the Liability Reparation System* (1969).

The DRI action program against no-fault liability had broad-based support from other organizations: International Association of Insurance Counsel, Federation of Insurance Counsel, Association of Insurance Attorneys, sixty-six state and local defense organizations, National Association of Insurance Agents, and National Association of Insurance Brokers. The eleven proposals in *Responsible Reform* became the foundation for DRI’s successful program to defeat federal no-fault legislation and the promotion of reform from state to state. The DRI action program and its position was presented through speeches, publicity, articles in other groups’ periodicals, and through distribution of *Responsible Reform* to defense lawyers, national and state legislators, and others interested in the no-fault debate.

By 1966, DRI had produced and distributed over a half-million copies of a pamphlet entitled *What Can I Do?* Designed for the general public, this pamphlet was aimed at improving the quality of jury composition and thus the reliability of verdicts, at decreasing highway accidents and insurance costs to the public, and combating fraud and questionable professional practices. *What Can I Do?* was DRI’s first successful attempt to place information directly in the hands of possible future litigants.

Demand for DRI publications continued to rise during the 1960s—and the organization responded with a steady stream. From 1962 through 1970, eighty varied publications were completed and distributed; in 1970 alone, thirty-three publications were produced.



From **1962** through **1970**

80 publications produced

In **1970** alone

33 publications produced

Coordination with Other Groups

LIAISON, COORDINATION, AND PUBLICITY HAVE always been essential elements in DRI's efforts to carry out its aims and programs. Cooperation with the IAIC, the FIC, and the AIA was strengthened through joint committees that were intended to coordinate the efforts of the different groups and avoid duplication of effort. Insurance industry representatives and defense attorneys held joint meetings to discuss and work toward the resolution of mutual problems. The first of these joint meetings was called by DRI to acquaint insurance information officers with its programs and plans. At a similar meeting in 1965, insurance company representatives and leaders of DRI and the other defense groups discussed ways to spread the defense message in a coordinated effort. These joint meetings continued for several years.

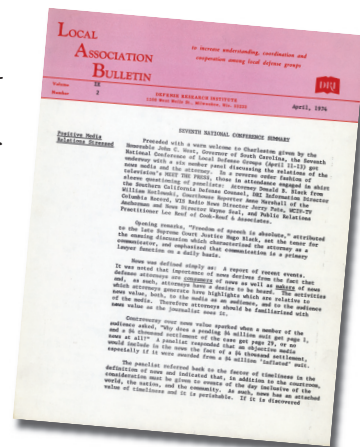
Leadership and participation in DRI activities was originally envisioned to be limited to the corps of Officers and Directors appointed by the IAIC and other national "social" defense lawyer groups. However, the demand for the sort of activities and projects being undertaken by the new organization was so great that a need for "grass roots" participation soon became apparent. Recognizing the virtual impossibility of directing a national program from a central headquarters alone, the DRI leaders soon looked to the formation of a network of state and local-based defense lawyers. First, DRI appointed a total of seventy-eight state and area chairs from every part of the nation. Then, it turned its attention to the state and local defense organizations (SLDOs).

SLDOs were not a new phenomenon in the 1960s. One of the earlier groups, the Association of Defense Counsel in Philadelphia, was started in 1955, and over the years the numbers grew; by 1970, there were sixty-six SLDOs. DRI contributed to this growth by assisting in initial organizational efforts and by suggesting by-laws for the new groups. It helped to finance the mailing of DRI publications from the SLDOs to their members, establish law school liaison programs, and foster legislative activity at the state level. DRI also assisted SLDOs in planning and publicizing state and local educational activities.

The relationships between DRI and the SLDOs were solidified with the publication and distribution by DRI in 1968 of the first *Local Association Bulletin*. It provided information about DRI, other defense groups, and national trends in tort and insurance law. An arrangement between DRI and several of the SLDOs, initiated in 1965, provided for distribution of *For The Defense* to state and local judges.

A giant step to gain defense coordination and cooperation was taken in April 1969 when representatives of SLDOs gathered at the first National Conference of Defense Bar Leaders. The meeting, sponsored by DRI and the Illinois Defense Counsel, was the first in a series of annual conferences. (It continued every year until 1996, when it was "replaced" by the first DRI Annual Meeting.) It featured personal exchanges of ideas and techniques for more effective operation of defense lawyer associations. The national conference pro-

By 1970, there
were 66 SLDOs



duced stronger ties between DRI and the SLDOs; the latter became closely affiliated with DRI while maintaining their own autonomy.

DRI initiated its own public relations program in 1964 with the addition to the staff of a full-time public relations professional. This person's responsibilities included maintaining a list of volunteer speakers for the defense cause (over 500 names) and a speech bank of 295 "canned" manuscripts for use by the speakers. The public relations program continued to grow, so that in 1970 222 news releases were sent to the mass media, insurance and legal publications, and others in the fields of medicine, business, and varied professions.

Legislative Activities

IN THE 1960S AND 1970S, to pursue its stated goals, which included "tort reform" initiatives, DRI realized that it had to express its opinions outside ordinary legal circles; it had to prepare and supply materials upon which legislative action could be based. Through the efforts of the DRI **Legislative Committee**, numerous sample statutes were prepared and presented to SLDOs and other defense lawyer associations in the form of model statutes that could be adapted according to the special needs of each state. (The Legislative Committee was also responsible for the publication of *Responsible Reform*, mentioned above.)

Sample statutes were drafted as to first party coverage to resolve problems of court congestion and delay and allow disclosure of collateral sources at trial. A statute on comparative negligence was drafted. Insurance companies were urged to continue their advance payments techniques to relieve the financial distress of persons injured in auto accidents, while a DRI sample statute provided that such payments should not be construed as an admission of liability in subsequent lawsuits. The problem of *ad damnum* claims and the effect on the jury when such claims are publicized was met through a sample statute that would allow only a general prayer in the complaint.

Other sample statutes sought punitive action for fraudulent claims, urged more efficient use of lawyers' time to cut costs to clients and the public, and sought more objective measures of damages for alleged "pain and suffering." Statutes were also drafted to deal with punitive damages, wrongful death damages, settlement negotiations, coverage for the underinsured motorist, limitation periods for professional malpractice actions, and driver licensing.

The DRI sample statutes were intended to facilitate state tort reform pursuant to the recommendations listed in *Responsible Reform*. Nearly 15,000 copies of this DRI monograph were distributed to federal lawmakers and officials, governors, state legislatures, insurance commissioners, and other interested groups and leaders.

Working Through the Committees

COMMITTEES HAVE LONG PROVIDED A forum for DRI members to conduct their work. Committees initiate projects that are geared toward improving the civil jus-

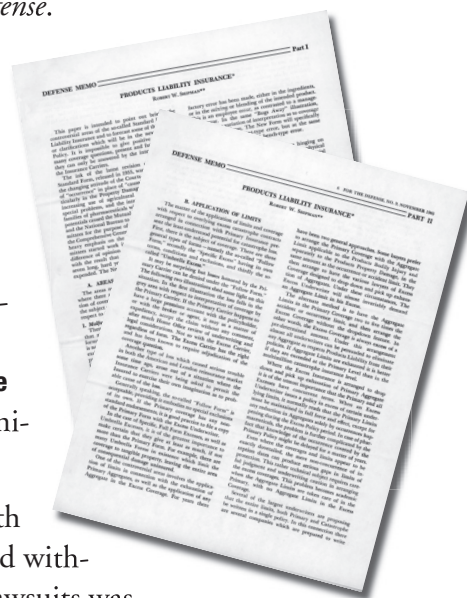
tice system. They are structures where an energetic defense lawyer can take on a challenging project, work hard on it, and take pride in the finished product be it an *FTD* article, a sample statute to be proposed by the committee to the DRI leadership, or a speech at a DRI seminar.

A number of committees were active in DRI's first decade. Working closely with the aforementioned Legislative Committee, the **Projects and Objectives Committee** raised questions about trends in defense practice—and then examined those questions in depth in DRI monographs. The committee asked what would be the proper amount of damages for pain and suffering; the resulting monograph had a salutary effect in retarding the *per diem* argument for damages. It expressed concern about professional liability insurance for attorneys, and it worried about increases in awards in death cases brought about through the plaintiff's reliance on questionable opinions of economic experts. The committee saw a need for continuing educational programs on professional liability and product liability and the use of videotape and other innovative (for 1970) technology in such educational ventures. In short, the Projects and Objectives Committee urged creative thought among defense lawyers and the need to counter each and every thrust of the plaintiffs' bar that tended to upset the proper balance of justice in civil litigation.

The menacing concept of no-fault liability spurred a number of DRI committees into action. In the belief that the American Law Institute had departed from its established purpose of merely restating established law, the **ALI Liaison Committee** challenged the ALI's apparent acceptance of the notion of strict products liability found in Section 402A of the *Restatement (Second) of Torts*. The challenge was made orally and in an article in the *American Bar Association Journal* that presented the DRI position. The **Aerospace Committee** carefully tracked legislation relating to the Warsaw Convention; it wrote about this specialized topic in *For The Defense*.

Other key committees performed vital roles. The **Practice and Procedure Committee** wrote frequently and effectively in *FTD* to bring to DRI members the latest in tactics that defense attorneys could use; these guides were in the new in-depth insert to *FTD* dubbed "Defense Memo." The committee also maintained communication with SLDOs on timely topics such as class actions so that a national posture could be assured. The **Professional Liability Committee** examined the dangers facing insurance agents and brokers, accountants, lawyers, corporate officers and directors, architects, and engineers. The **Medical Legal Committee** was concerned about the threat of malpractice litigation to doctors. It initiated an educational series on basic medicine for defense attorneys.

The **Accident Prevention Committee** worked diligently to coordinate with other safety-minded groups so that America's highways could be traveled without inordinate fear of injury or death. The growing wave of pollution lawsuits was the concern of the **Environmental Pollution Committee**; it examined the increasing federal regulation of air and water quality.





The Law Schools Committee, in combination with SLDOs, presented a total of 50 programs, at 21 law schools, during the 1960s.



Some of the early seminars drew as many as 700 attendees

Not all of the DRI committees in the 1960s dealt with practice and substantive law developments. The **Law Schools Committee**, in combination with SLDOs, entered law schools across the land bringing students practical advice regarding methods of advocacy that had been gained through long, hard hours in the courtroom. It presented a total of fifty programs at twenty-one law schools during the decade; the subject matters of these lectures were casualty insurance litigation and the civil jury trial. By introducing fledgling lawyers to the philosophy of the defense bar, the law school program had immense potential for influencing the future of tort and insurance law. The committee also produced a companion pamphlet, *Trial and Skills Training for Law Students*, that was distributed at the law schools.

The **Law Institutes Committee**, formed in 1965, started the DRI Defense Practice Seminars program that has been so successful over the years. From the beginning, it provided advanced continuing education for defense attorneys. The first seminars focused on basic topics such as liability insurance defense, negligence defense, and defense tactics; several were cosponsored with the Practising Law Institute. In its infancy, only two or three seminars were presented each year, typically in Milwaukee, Chicago, and New York City; in fact, some years (1969, 1970, 1974, 1975) passed without even a single DRI seminar. Still, some of the early seminars drew as many as 700 attendees. As the program developed and its reputation for top-quality education and information grew, the seminars became popular gathering places for defense trial attorneys, house counsel, insurance professionals, and corporate executives. However, the number of seminars and the attendance figures in the 1960s and 1970s pale in comparison with the phenomenal success the seminar program was to enjoy in the 1990s and in the 21st century.

The **Speakers Bureau Committee**, formed in 1963, maintained a “speech bank” that became very popular with DRI members. Working with the DRI Director of Public Relations, the committee provided defense speakers at forums, conferences, legal gatherings, and other public affairs. For instance, in 1970, DRI speakers participated at 88 events.

Through the work of the committees described above, the thrust of the plaintiff’s bar was no longer unchecked. In 1964, an independent organization named Jury Verdict Research, Inc. made the observation that “increased defense indoctrination and educational activity, such as that undertaken by the Defense Research Institute, may exert increased influence that will counter plaintiffs’ expanding efforts.”

Serving the Members

ONE OF THE PRIMARY FUNCTIONS of the DRI staff has always been to provide litigation support services to individual members. In general, these are research services designed to provide relevant background information to members as they prepare for litigation.

In the early years, one of the most widely used services was the **Brief Bank**. In 1961 the insurance industry established a Defense Information Office in Chicago to provide legal briefs containing arguments used by counsel in earlier litigation to members of subscribing insurance associations. Management of this project was shifted to Milwaukee in 1965, and it became a full service function of DRI in 1971. The Brief Bank was indexed so that a staff member could respond quickly when a DRI member requested an argument or list of authorities on a specific legal topic. The value of the Brief Bank service expanded and intensified through the years. By the end of 1970, briefs from 2,907 separate case files were available.

The **Expert Witness Index** was also begun by the Defense Information Office and was taken over by DRI in 1965. By 1970, the Index contained 1,200 names of experts (both plaintiffs' and defense), as well as directories of experts from universities and other professional groups. Like the Brief Bank, the Expert Witness Index was organized so that a request for names of experts in a narrow area of litigation could be handled quickly and efficiently. The value and popularity of the Index was quickly apparent; a special DRI committee was created in the late 1960s to improve its quality and expand its scope.

One area of special concern about expert witnesses has long been the reliance on economists for their opinions on the appropriate amount of damages that should be awarded to injured plaintiffs. From its beginning, the Expert Witness Index has contained names and transcripts of testimony of many economists, with a corresponding high demand from DRI members for information about them. This led to a series of popular DRI monographs on economists' testimony.

The Index has continued to expand over the years, and is as popular as ever with DRI members. Now known as the Expert Witness Database, by 2005 it contained information on more than 65,000 experts.

Another of DRI's services in the early years was response to requests from members for **individualized legal research**. Members would ask for assistance on matters such as citations to cases and statutes and answers to specific legal problems. Initially, the small professional staff in Milwaukee was not in a position to do in-depth research, but it did attempt to provide leads to judicial decisions, law review articles, and other sources. With the addition of staff in the late 1960s, more helpful assistance was possible. The staff responded to 887 requests for such assistance in 1970 alone.

In 1966, DRI initiated an **arbitration service**. It was designed to reduce costs and serve as an effective tool to help resolve coverage disputes between insurance companies. By 1970 thirty-four arbitrations had been filed and 935 experienced defense trial lawyers had volunteered to serve as arbitrators.



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*By **2005** the Expert
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Success and Restraint

IN ITS EARLY YEARS, DRI ran the gamut—from an idea born of need and a reaction to a sweeping offensive to a complex but coordinated program that departed from the mere defensive and became positive. The Officers, Board, and membership represented top talent in the field of tort and insurance law, and they were so recognized on the national scene.

The persons leading DRI and those carrying out its aims were characterized by knowledge of the law itself and the desire to learn as well as voluntary donation of their time and energy to a just cause. Their efforts advanced the organization and were living proof that improved justice can be gained through the efforts of dedicated professionals. By the end of its first decade, DRI was well on its way to becoming the national voice of the defense bar. The quality of its endeavors and the soundness of its proposals were widely recognized. It was now poised for the expansion of its membership, its educational and informational activities, and its influence in the national arena.

As membership and activities increased, the permanency of the relationship between the International Association of Insurance Counsel and DRI was being discussed. Some believed that DRI had grown to the point where IAIC control should be loosened, while others believed that its independence should be further contained.

In 1970, steps were taken to curtail DRI activities not directly related to its research and publication role. By 1970 DRI's efforts, products, and reputation had become so firmly established that the momentum toward an enhanced national role was readily apparent.

A Maturing Organization

DRI ENTERED ITS SECOND DECADE financially strong and well positioned to expand and improve its services, research, educational programs, and participation in the legislative reform of the civil justice system. Efforts to enact automobile no-fault legislation at the federal and state levels continued unabated; in addition, no-fault was being proposed for the products and medical malpractice areas. The decade witnessed increasing threats to the liability reparation system. DRI leaders renewed their efforts to promote “responsible reform.”

The decade of the 1970s was a time of growth in membership in DRI and an entry into continuing legal education. Membership increases, fights over no-fault, improved services to members, practice seminars, expanding publications, and closer liaison with state and local defense organizations marked the road to maturity.

No-Fault Difficulties

THE HOTTEST ISSUE OF THE early 1970s for the tort and insurance bar was probably whether there was a need to change the traditional automobile accident reparations system. A variety of options to modify the essence of the system were floated and hotly debated; in general, they would do away with the requirement to show fault in automobile accidents before a claimant could recover. Studies had suggested that a system in which the injured party was required to do little more than present his or her claim would result in speedier, more efficient resolutions. No-fault proposals were introduced as bills in many state legislatures and the United States Congress. The most significant was probably the Uniform Motor Vehicle Insurance Act (SB 4339), patterned after an act written by the National Conference of Commissioners on Uniform State Laws.

DRI's position was clear; it strongly opposed the adoption of any sort of no-fault legislation. It argued that abrogating the fault system would increase deaths, injuries, and economic loss on the nation's highways. The Officers and the Board of Directors adopted strongly worded policies on this matter. They had spent much time and effort in 1968 and 1969 analyzing, critiquing, and disseminating information on the various no-fault automobile plans being proposed. They worked cooperatively with the International Association of Insurance Counsel, the Federation of Insurance Counsel, the Association of Insurance Attorneys, and especially the American Bar Association.

The DRI campaign against no-fault had several facets. One was appearances before Congressional committees considering no-fault legislation. For instance, in 1969 DRI Board Chairman Mark Martin presented a statement to the Senate Antitrust and Monopoly Subcommittee. He said, “We believe that no-fault is something the public does not need and, in possession of all the evidence, would not want.” Another facet was the preparation and filing of position papers with

legislative reform
SERVICES
expand
financially strong



Mark Martin



Burton J. Johnson

Congress. DRI also drafted alternative legislation that would retain the concept of fault in civil litigation. Speeches that explained the no-fault proposals and the reason for opposing them were presented by DRI leaders.

Burton J. Johnson, DRI President in 1979, also appeared before a Congressional subcommittee as a spokesperson for both DRI and the Oklahoma Bar Association. He argued that each state, not the federal government, should decide whether to adopt no-fault automobile legislation. Mr. Johnson worked closely with state and local defense groups in Arkansas, Louisiana, Texas, Oklahoma and New Mexico in the successful effort to defeat federal no-fault.

DRI undertook a massive publicity and information effort. A pamphlet for the general public titled *The Public and No-Fault Auto Insurance* was prepared, and over 28,000 copies were distributed. A companion pamphlet, *The Dilemma of No-Fault Insurance*, was distributed to 24,000 members of the public. A third was titled *The Civil Jury System*, which supported the civil jury. The pamphlets were supplemented by detailed and pointed articles in *For The Defense*. Articles also appeared in publications of other defense attorney groups.

DRI's vigor in challenging no-fault did not always meet with the approval of all of its corporate and insurance members, who often favored speedy resolution of claims. Conflicts of this sort were anticipated and could not be avoided; the conflict stemmed from different approaches to accomplish the joint goals of the defense lawyer and corporate members. Harm to the relationship was avoided by meeting at frequent forums and conferences, and by face-to-face discussion.

By the end of the 1970s, federal no-fault automobile legislation was defeated, although some form of no-fault was adopted in a small number of states. Legislation requiring that first party insurance coverage be made available in the automobile liability policy, as well as limitations on the amount that could be recovered by auto accident victims, was adopted in some jurisdictions. Changes in the guest laws and settlement practices, the adoption of comparative negligence, and uninsured motorist coverage resulted in a reduction of automobile accident litigation in the states that did not adopt a no-fault statute.

By 1980, there was little impetus for the enactment of automobile no-fault legislation at either the federal or state level. Although auto accidents continued unabated, the trial of these cases was no longer considered a major policy problem. The no-fault controversy probably had its greatest impact in the fact that major reforms were made in the tort liability system without destroying the basic fabric of the system.

Dealing with Products and Malpractice Insurance “Crises”

ONCE THE NO-FAULT AUTOMOBILE INSURANCE matter seemed to be resolved, a new and arguably related problem arose: strict liability in products liability litigation. The so-called product liability “revolution” began with the removal of privacy requirements in negligence actions. Litigation mushroomed when recovery was

recognized on a theory of strict liability—*i.e.*, liability without fault by the manufacturer or distributor of the injury-causing product—as promulgated in 1965 as Section 402A of the *Restatement (Second) of Torts*.

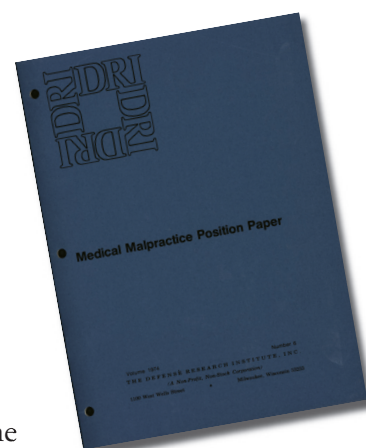
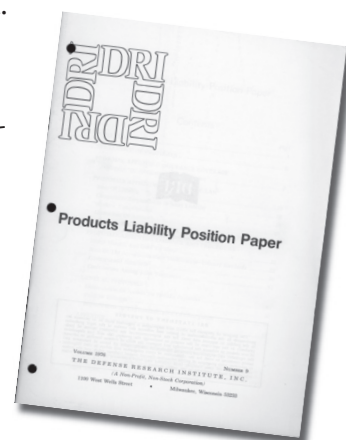
Because of the growing interest in products law, and the problems for the defense raised by the move toward strict liability, the **Product Liability Committee** became one of DRI's largest and most active in the late 1970s (and continues to this day as one of DRI's foremost committees). It developed a number of monographs on aspects of product liability prevention and litigation, and two major course books: *Products Liability Defense* and *Trial Strategy for the Defense*. Articles on varying aspects of product liability defense appeared frequently in *For The Defense*.

The DRI Board of Directors also became active in the products liability field. It sought to forestall restrictive legislation in the states that might be patterned on Section 402A and to promote legislation that endorsed the fault concept. DRI issued a “Products Liability Position Paper,” which contained thirteen proposals for legislative reform; sample statutes were included. The basic message espoused by DRI was that a showing of negligence or some other level of fault must be required before a product manufacturer, distributor, or retailer could be held liable for injury suffered by a product user. The position paper was widely distributed. The Board authorized qualified representatives to approach state legislatures for possible implementation of the proposals.

DRI also dealt with the so-called “crisis” in medical malpractice insurance. The cost of insurance was rising rapidly as an increasing number of malpractice claims were filed, often leading to high awards. Paying the escalating premiums became a burden for many physicians and other medical professionals, and even the availability of insurance became an issue. The situation called for reform, especially some sort of limitation on malpractice awards.

In 1975, DRI sponsored a conference that addressed the crisis in medical malpractice insurance. The conference provided a forum for a discussion of the problem areas and the opportunity to develop proposed solutions that could be agreed upon by the defense bar, the insurance industry, and the medical profession. It opened a dialogue between the attending groups and led to an agreement to work toward reasonable solutions for the benefit of the public. The conference was followed by preparation of the “Medical Malpractice Position Paper,” which proposed reforms in the area without radical surgery. A popular monograph, *Defense of Medical Malpractice Cases*, was distributed to the membership.

The no-fault, product liability, and medical malpractice insurance matters were elements of what became known as the “tort reform” efforts of DRI. The educational programs, publications, speeches, legislative lobbying, and other activities had as their goal the strengthening of the fault-based adversary-jury process of the tort liability system, a system that had been under attack by the plain-



tiffs' bar. The efforts were intended to promote responsible reform of the civil justice system in the courts, the legislatures and with the general public.

Coordinated Drives for New Members

THE PRIMARY SOURCE OF INCOME at the beginning of DRI's second decade was membership dues. Despite the growth of individual, corporate, and insurance company memberships, the Officers, Board, and staff recognized that if DRI was to be "the voice of the defense bar," it was necessary to increase membership in all categories. Rising membership numbers would bring broader influence and the financial backing for expanded educational and informational programs. An analysis of the individual members indicated that the bulk of the members were affiliated with the International Association of Insurance Counsel, the Federation of Insurance Counsel, and the Association of Insurance Attorneys. This meant that thousands of individual defense attorneys, not affiliated with these organizations, had not yet come aboard. Another large mass of potential members were the members of the state and local defense organizations that had not yet joined "the national."

In 1971, a leader-based membership campaign was started. The Officers, Directors, Regional Vice Presidents, committee chairs, and state and area chairs began a program of contacting individual members and asking them to join. This effort resulted in a modest increase in membership—and a recognition that a committee within DRI concerned only with membership recruitment needed to be formed.

The new national **Membership Committee** cooperated with the state and area chairs and the SLDOs in starting a concerted drive for new members. In addition to face-to-face contact, the committee obtained more staff involvement, and a membership brochure, *A Time To Belong*, was prepared and distributed.

The Membership Committee started the **DRI Advocates** program in 1971. The program, which has continued over the years to the present, recognizes and thanks the individual DRI members responsible for recruiting new members. Their names are included in *For The Defense* every month along with the names of the new members.



1971–1980

*Individual membership increased
40 percent to nearly 8,000*

Corporate membership reached 336

*256 insurance companies
were members*

*Foreign countries represented
among the membership by 1980
included Canada, England,
Australia, and Germany*

The membership drive, combined with the expansion of the continuing legal education program, was quite effective. The Defense Practice Seminars attracted defense lawyers from all over the United States, created greater visibility for the organization, and provided the opportunity for expanded contacts with potential new members. In the period 1971–1980, individual membership numbers increased forty percent to nearly 8,000. Corporate membership reached 336, and 256 insurance companies were now members. The increase in non-insurance corporate membership can be directly attributed to the Defense Practice Seminars and their emphasis on product liability litigation. Contact with trade associations also helped boost the corporate numbers. Foreign countries represented among the membership by 1980 included Canada, England, Australia, and Germany.

The increased corporate membership led to increasing corporate involvement and input, especially from product manufacturers, into DRI programming. The Board of Directors created a **Corporate Counsel Committee** that consisted of lawyers who worked full-time in legal departments of corporate members. It was asked to develop publications and educational components that would address the particular needs of house counsel.

Expansion of Services to Members

THE PURPOSE OF DRI'S SERVICE program has always been to assist individual members in performing their professional tasks in a more efficient and capable manner. During the 1970s, these services continued to expand in quality and quantity. The Officers, Board of Directors, and staff concentrated on making the various programs self-supporting, of increasing value, and keeping pace with the ever-changing world of the defense lawyer.

The **Brief Bank** was originally founded by the Defense Information Office, but it became a full-service function of DRI in 1971. Briefs whose content was related to completed litigation were submitted voluntarily by members. The bank was popular with lawyers who wished to determine whether legal arguments used in the earlier case would be helpful with the current lawsuit. Nominal charges were made for locating a potentially helpful brief, making photocopies, and sending it to the requesting member. The charges did not diminish the bank's use or value since it offered busy trial counsel an ideal research tool.

The content of the briefs in the bank covered a broad range of subject matter. They also flowed steadily into the DRI office. Thus, the chances were good that a requesting member would receive a brief on his or her specific topic, and that the brief would reflect the latest developments in the law. Indexes were prepared by DRI staff to aid in the search for just the right brief. Requests for briefs averaged more than 550 annually, and the inventory reached 4,500 by 1980.

The **Expert Witness Database** (originally named the Expert Witness Index) has long been one of DRI's most popular member services. It is intended to assist the defense litigator in finding qualified experts who can assist in investigation, analysis, and possible testimony at deposition or trial. The Database grew substantially throughout the 1970s—in the volume of names, the range of topics they covered, and the demand from DRI members using the service. Experts in the areas of accident reconstruction and product liability were requested most frequently.

In 1975, DRI started its "adverse expert witness" service. Such witnesses were defined as experts who regularly testified for plaintiffs or who traveled around the country offering themselves to testify in support of sometimes questionable theories of liability. DRI members assisted the adverse expert service by providing information on the experts, including transcripts of testimony at deposition and trial.

One type of expert that was in great demand during the 1970s was the economist who offered guidance as to the proper amount of damages that could be



*Requests for briefs averaged more than **550** annually, and the inventory reached **4,500** by 1980*

paid to an injured claimant, especially in wrongful death and disability cases. Such experts usually relied on measures of the claimant's lost working life, discounts to present value, and other often esoteric theories. Because each relied on his or her own favorite measure, a "battle of the experts" in court often ensued. The Expert Witness Database collected transcripts of prior testimony of economists so as to provide a full range of information about each economist that would aid the defense lawyer in deciding whether to retain a particular economist's services. The interest in economic experts led to publication of two of DRI's most popular monographs, *Economists' Testimony* (1968) and *The Economic Expert in Litigation* (1975).



A new service for members, the **Product Liability Exchange**, was started in 1978. Reflecting the growth of products litigation, this service was a list of names of DRI members who had defended lawsuits involving specific products. The user of the exchange, typically a defense lawyer with pending litigation involving the same or similar product, was able to contact lawyers for assistance, information, and advice on specific litigation techniques applicable to this product, and thus improve his or her chances of success. Modeled after a similar ATLA program, the Product Liability Exchange never reached its full potential.

The **Individual Research Program** was moderately popular during the 1970s. It responded to requests from members for in-depth research on specific issues; a professional staff member at DRI would handle the request and prepare a memorandum of law for the requester, who paid a moderate fee for this service. The program was probably most popular with DRI members in smaller law firms who might not have the resources in their own offices to undertake such research. It received over 200 requests annually.

The DRI **Arbitration** program blossomed in the 1970s under the control of the DRI **Arbitration Committee**. A panel of more than 1,000 defense lawyers was available to arbitrate inter-insurance company coverage disputes. By 1971, 34 arbitrations had been submitted and 24 were successfully concluded.

The arbitration service was part of DRI's effort to promote efficient use of lawyer resources and to reduce the cost of legal services. A compendium of prior arbitration decisions with summaries and an index was published for the guidance of arbitrating parties. The service's appeal was heightened by the creation of a National Arbitration Panel which provided the parties the choice of commencing arbitration under a local panel or a national panel. A right to a rehearing was also provided.



By the end of the 1970s, over 100 arbitrations had been submitted and successfully concluded.

By the end of the 1970s, over 100 arbitrations had been submitted and successfully concluded. The scope of the program was broadened to accommodate disputes of all types rather than limit it to inter-company disputes. With the number of arbitrators, both national and local, approximating 1,400 lawyers, it became a monumental task for the Arbitration Committee and the DRI staff to

keep the service operating smoothly. The need for computer technology and modernization of the entire service program was readily apparent.

Raising Publication Quality and Quantity

THE VALUE AND SUCCESS OF DRI's quality publications have been attested to by the membership and by the numerous requests for copies from others. Early leaders such as William T. Birmingham and G. Duffield Smith, Jr. emphasized the crucial role of publications in educating defense lawyers—long before the growth of seminars and more modern communications media. They viewed *For The Defense*, monographs and special publications as ways to reach defense lawyers in solo practice or small firms who had limited access to other sources of professional information.

During the 1970s, major publications—typically DRI monographs—averaged ten per year. The topics were varied and diverse, evidencing the increased work by the committees and the ever-changing defense practice. Major subject areas included product liability, professional liability (medical, attorney, engineer, accountant, and insurance broker malpractice), insurance law and practice, uninsured motorists protection, trial practice (including evidence), aviation, and employment law. Older publications were updated and distributed as the need arose.

Monthly issues of *For The Defense* continued, with a reading public of more than 16,700 in 1980. Included in the total were 4,000 state and federal judges who received *FTD* through an arrangement between DRI and several state defense organizations. What began as an eight-page newsletter in 1960 grew first to twelve and then sixteen pages. In 1980, *FTD* became a highly regarded thirty-two-page magazine. Full color covers began in the mid-1980s. The new format and increased size allowed for deeper and more extensive treatment of substantive legal developments and defense litigation tactics and techniques, while continuing the concise commentaries on important legal issues affecting the defense bar.

Numerous informational publications were distributed during the 1970s. They included: *Special Bulletin* (which later was renamed *Plaintiffs' Strategy*), *Local Association Bulletin*, *Law School Bulletin*, and a variety of special reports on tort reform and civil litigation.

The Defense Practice Seminars program gave rise to a new written informational tool—the seminar course book. Course books were designed to accompany each seminar attendee and were of sufficient quality to meet standards set by state continuing legal education agencies. A typical course book consisted of a compilation of outlines, case citations, articles, and other pertinent material. They were



G. Duffield Smith, Jr.



made available to non-attendees after each seminar. Sales of seminar course books have been a continuing source of revenue for DRI.

Dipping Into CLE

THE NEED FOR SEMINARS AND other continuing legal education activities as a means of delivering important information to the defense lawyer and his or her client was recognized in the 1960s by DRI leaders. They formed the **Law Institutes Committee** (now known simply as the Law Institute) in 1965. Yet, few seminars were actually held until 1976.

The early 1970s saw a few DRI seminars that dealt with no-fault, first party insurance, and the tenets of “responsible reform.” In 1971 and 1973, DRI sponsored a two-day product liability conference that attracted participation by defense lawyers and insurance executives from throughout the United States as well as from Japan, Germany, and Canada. They were followed by a two-day seminar on product liability held in New Orleans in January of 1976, with 365 attendees. The excellent speakers and the materials that were distributed at each of these gatherings were applauded. Shortly thereafter, a successful seminar on equal employment opportunity law was presented.

The success of these early conferences indicated a need and opportunity for DRI to expand its entry into the continuing legal education field and offer a full range of CLE courses. Another factor that arose at this time was mandatory CLE. By the mid-1970s, many state legislatures were promulgating regulations relating to continuing legal education. Most required that every lawyer in active practice in that state attend a prescribed amount of CLE each year. CLE providers all over the nation moved into high gear to meet the new situation. DRI leaders understood that they had to do the same.

The Board of Directors encouraged the Law Institutes Committee and staff to expand, refine, and promote further national and regional seminars. Still, progress was slow. In 1977 two seminars were held; three were held the next year. 1979 witnessed the presentation of six national seminars: three on product liability, one on equal employment, one on hospital liability, and one on complex insurance problems. Seven seminars were held in 1980.

It was not until the mid-1980s, however, that DRI began fulfilling its mandate to offer Defense Practice Seminars to its members several times each year on topics that were both “cutting edge” and traditional—how to be a more effective defense litigator.

Building a Network of SLDOs

THE NETWORK OF STATE AND local defense organizations was a key component of the defense bar’s organized efforts to reform the civil justice system. Some believed that DRI was dependent upon the SLDOs for implementation of the defense message. A DRI Officer from the 1970s, Laurence E. Oliphant, Jr., stated that “DRI can itself perform only a partial function for the defense effort through establish-

ment of principles, production of essential published materials, and development of means through which they may be communicated.... [SLDOs] provide the necessary adaptability to the variances that exist throughout this vast nation and the voice and action for the defense at the 'grass roots.' Only the local association, not the national organization, can complete the effective delivery of the message that DRI endeavors to transmit for the defense."

Communication and cooperation with state and local defense groups increased in the 1970s. DRI Regional Vice Presidents played key roles in this coordination. The annual National Conference of Defense Bar Leaders, established in 1969, improved in quality and in the number of attendees. DRI coordinated the meetings, but each year a different SLDO competed for sponsorship and the site for the meeting shifted from one state to another each year.

Over seventy SLDOs were operative in 1980 and active in sponsoring law school programs, legislative activities, DRI membership promotion, and the mailing of DRI materials to judges in at least forty states. A primary source of communication between DRI and the SLDOs was the quarterly *Local Association Bulletin* and the action of many SLDOs in placing DRI state and area chairmen in an *ex officio* status on their boards. DRI continued to provide administrative services as requested by some SLDOs to assist in their growth and programs.

The value of the state and local groups was further recognized when, at the 1978 national conference, thirty-one groups were awarded the first Exceptional Performance Citation for their efforts "in supporting and improving the administration of justice in the public interest."

Evolving Staff and Leadership

THE FOUNDERS OF DRI ENVISIONED that the organization would have a strong academic character. One step in achieving this vision was the affiliation with a university law school. The establishment of the permanent headquarters near the Marquette University campus in Milwaukee satisfied this desire. The first Research Director (who was also the administrative director), James D. Ghiardi, was a professor at Marquette Law School as was his successor, John J. Kircher. The building of the professional staff during the 1960s focused on individuals learned in the law who had both an academic and a practical bent.

DRI had fourteen employees by 1970, plus two law school consultants and three student law clerks. The professional staff consisted of Professors Ghiardi and Kircher and a public relations director. The availability of the Marquette Law Library and access to the hiring of law clerks gave impetus to the development of a full-scale academic and research program. Nevertheless, from the outset it was understood that DRI Officers and the Board of Directors would determine the tasks and responsibilities to be undertaken by the Milwaukee staff.

A DRI President from the Ghiardi-Kircher era, John M. Dinse, recalls that Jim Ghiardi was not only a first-class scholar and top-notch administrator, but also "a



Over 70 SLDOs were operative in 1980.



John J. Kircher



John M. Dinse

thoroughly likeable gentleman.” Jack Kircher “carried on in Jim’s image quite ably.” In Mr. Dinse’s view, Ghiardi and Kircher “certainly had much to do with the growth of DRI during that period of time (the 1960s and 1970s), not only in numbers of members but also in the scope of the educational and informational program.”

Over the years, inevitable changes occurred in the staffing of DRI. In 1972, after ten years of service, Professor Ghiardi resigned his position as Research Director. (He was awarded DRI’s Distinguished Service Award in 1972.) Although his resignation was a serious organizational loss, the quality of the remaining staff and the outside Officers and Directors ensured that all facets of the complex DRI program moved steadily ahead under his successor, Professor Kircher.

Dean Robert Miller of Syracuse University College of Law, who had been the Editor of *For The Defense* since its launch in 1960, resigned in 1973. (He also received DRI’s Distinguished Service Award.) He was succeeded by Donald J. Hirsch, who also had the title of Assistant Research Director and had been on staff since 1968. Other changes in the professional staff occurred in the early 1970s; the newcomers were able to continue to provide excellent leadership, research, and service. By 1980, the DRI staff consisted of eight professionals, eight support personnel, and five law clerks.



Donald J. Hirsch

The success of an organization can be measured by its leadership. DRI was fortunate to have a core group of outstanding defense lawyers to serve as the original founders and officers. To perpetuate this high quality type of leadership, the Board of Directors sought experienced and capable persons for the positions of President, the various Vice Presidents, and Board Chairman. The Officers in the first decade (1960s) had been involved primarily in the initial organization of DRI. In the second decade, individuals were recruited who had been active in DRI’s programs; thus, the leadership was turned over to individuals who had “grown up” with DRI. All had been longtime members, had worked hard as committee chairs, Regional Vice Presidents, and leaders of SLDOs. They were well-trained and equipped to foster continued growth. The founding fathers put a great deal of personal time and efforts into conceiving and nurturing DRI to a healthy national association; the leaders of the second decade brought it to maturity.

In 1971, the IAIC Executive Committee decided to review DRI’s history, past performance, future, and the IAIC’s role in its operation. The DRI By-Laws were amended so that IAIC not only represented a majority of the Active members (*i.e.*, the Voting members), but also a majority on the DRI Executive Committee. The Officers of DRI were elected by the Active members, and the nominating committee majority was controlled by the IAIC Executive Committee. Additional IAIC officers were seated on the DRI Board.

The challenges of the 1970s were formidable, and reform and change were continuing. DRI would be required to adapt to change if it was to provide the leadership that the defense bar demanded.

Grown Up

PRESIDENT JOHN M. DINSE, IN commenting that DRI had reached adulthood in 1980, wrote:

I believe that we are meeting member expectations.... Our publications, our national seminars, and our service program have continued to improve over the years. They kept pace with the needs of our members. We have been true to our commitment to increase the professional skill and enlarge the knowledge of defense lawyers. One area that deserves our attention is what might be referred to as the economics of defense practice.

Let us look at the record. We have spoken out selectively on national issues that affect our members. Position papers have been issued on auto no-fault, and on the so-called “crisis” situations in medical malpractice and products liability. A position paper on improvement in the administration of civil justice will soon be completed.

We have made our views known to Congressional committees and federal agencies by personal appearances or by the filing of statements on issues such as national no-fault legislation, products liability, and diversity jurisdiction. So we have given our members a national voice. But have we been effective?



DRI headquarters
in Milwaukee,
1982.

A Time for Change

IN 1983, REFLECTING ON MAJOR changes in the administration of DRI, President Robert C. Maynard stated:



Robert C. Maynard

In taking stock of where we are, one cannot help but conclude that the decade of the 1980s will be a significant turning point for DRI. With a new Executive Director, a new Research Director, a new home and a secure membership base, one has the sense that the organization is poised to make a significant impact on the world around us. It remains for us to widen our sphere of influence to the councils where public policy is made.

With a surging membership, an expanded staff, and a new home in Chicago, DRI leaders were indeed poised to renew their dedication to serve defense lawyers, and to become the “voice of the defense bar.”

New Staff Leadership and a New Home

THE FOUNDERS OF DRI ENVISIONED a staff headed by an Executive Director, a Research Director, and sufficient professional and clerical staff to carry on its many projects and goals. The first two staff leaders, James D. Ghiardi and John J. Kircher, held the title of Research Director, but also were the administrative chiefs of the organization. In 1981, Jack Kircher resigned the Research Director position, after fifteen years of excellent service, to devote his energies to full-time service on the Marquette University Law School faculty. Like Jim Ghiardi before him, Jack received DRI’s Distinguished Service Award in 1981.



Louis B. Potter

The Board of Directors, in approaching the matter of replacing Jack Kircher, decided that the title of the next staff leader would be Executive Director. Following a search, in the fall of 1981 the Board appointed Louis B. Potter as Executive Director of DRI. Lou had many years’ experience as a practicing lawyer and as an administrator at the American Bar Association and the American Bar Foundation. At DRI, he was to function as chief of staff. In addition to his administrative duties, he was to devote a substantial amount of time to developing the goals of DRI and assisting it to reach a greater potential. Lou was an effective leader with a low key, understated managerial style. Donald J. Hirsch was appointed Research Director; since joining DRI in 1968, he had organized many research and publication projects, while also serving as Editor of *For The Defense*.

In June 1984, DRI moved its headquarters from Milwaukee to Chicago. The relocation to a major metropolitan area, initiated by Lou Potter and strongly endorsed by the DRI Officers, was seen by many as a positive strengthening of DRI as an independent lawyers’ association. The relocation was understandably unpopular with most of the Milwaukee-based staff.

DRI occupied offices in the new American Bar Center on the lakefront campus of Northwestern University Law School. The professional staff had access to

Northwestern's law library, its continuing legal education and conference center, and direct contact with the American Bar Association and other law-related organizations housed at the Bar Center. DRI's lease was for fifteen years. It had the option to occupy additional space should future growth so dictate; in fact, the DRI office had expanded twice by 1999 so that it eventually occupied half of the fifth floor of the Bar Center.

The move to Chicago gave DRI a more centrally located headquarters with greater access to air transportation which facilitated meetings of DRI leaders from around the country. The move also caused a major turnover in the professional and support staff, but the ongoing presence of Lou Potter and Don Hirsch provided smooth continuity, with no delay in the completion of the varied educational and publishing projects of the organization. The month-to-month responsibility for preparing *For The Defense* was assigned to Davidson Ream, with the title of Managing Editor. Other staff lawyers worked diligently on writing, research, and educational projects. By 1988, the staff had grown to twenty-two individuals.

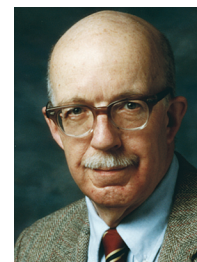
The strength of DRI was tested in 1989 with the unexpected death of G. Duffield Smith, Jr., just two weeks before his scheduled ascent to the Presidency of the organization. [Posthumously, he was elected President of DRI.] Unfortunately, the next Officer in line for the Presidency was unable to take over the position at that time on such short notice. In this potential crisis in leadership succession, the Secretary-Treasurer, Thomas M. Crisham was elected President to serve Duffield Smith's term. Tom Crisham's experience as an Officer and long-time DRI activist made him well-qualified to fill the post.

Tort Reform: Its Many Facets

BY THE 1980S, THE CALL for no-fault automobile legislation that had so dominated DRI's concerns in its early years had become passé. However, the organized plaintiffs' bar continued to press for changes favorable to their clients, both in the legislatures and in the courtrooms. Their campaigns met with some success. Filing of frivolous lawsuits, abuse of the discovery process, arguments for liability regardless of the absence of fault, escalating damages awards, and the increasing popularity of punitive damages awards—all were on the rise. The situation cried out for counteraction by the defense bar. The response from DRI and other defense groups was a call for "tort reform"—a catch-all term for the effort to return the tort reparations system to its traditional reliance on fault-based liability and reasonable damages awards that more accurately reflect the injured plaintiff's loss.



DRI headquarters at the American Bar Center in Chicago.

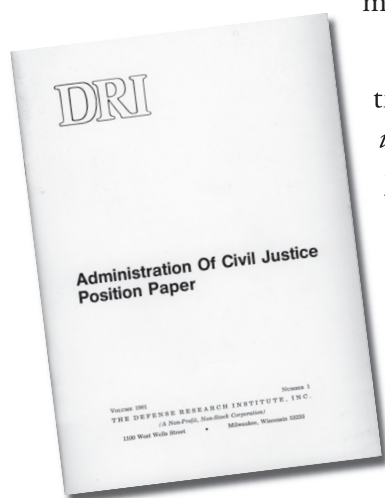


Davidson Ream



Thomas M. Crisham

The decade of the 1980s saw intensive efforts on behalf of nationwide reform of the civil justice system. Through its network of individual and corporate members and state and local defense organizations, DRI championed the cause of sensible reform, based on its belief that the traditional justice system still provided the best method for citizens to resolve their legal disputes.



Recognizing the need for a broader focus on the social machinery of justice, DRI published in 1981 a comprehensive monograph entitled *Administration of Civil Justice Position Paper*. DRI had published similar position papers in the 1960s and 1970s, but the 1981 paper was far more sweeping in its proposals for reform. While DRI leaders had drafted the paper, it was endorsed by DRI's "parents"—the IAIC, FIC, and AIA. It consisted of proposals for reform in several areas: case flow management, court organization and management, judicial selection, retention and removal, jury selection and service, lawyer competence and performance in litigation, relations with clients and the public, and public support of the courts.

The 1981 paper, and its antecedents, became the framework for DRI action. A four-fold program developed:

- 1) to continue and expand the work of SLDOs in their efforts to influence state legislation and regulation,
- 2) to create a national coalition for litigation cost containment that will provide a defense voice in the halls of Congress,
- 3) to assist in the preparation and filing of *amicus curiae* briefs in the courts in order to have an impact in the development and formulation of court-made law, and
- 4) to engage in an expanded public debate on the administration of justice and the adversary system.

This fourth element of the tort reform proposal was based on the belief that significant improvement can only be made in the administration of justice if there is broad public support.

In 1983, DRI, IAIC, FIC, and AIA organized a task force to explore "affirmative action to counter the overwhelming cost factors of the judicial system that are causing a constant assault upon and erosion of the system." The task force issued its report in 1985, in which it concluded that if there was to be a system for dispute resolution that would be fair, efficient, and effective, it had to:

- 1) make the public aware of the cost of the ever-expanding size of damages awards;
- 2) limit or eliminate punitive damages;
- 3) limit discovery abuse;
- 4) implore the judiciary to take a more active role in case management;

- 5) develop methods to administer claims efficiently;
- 6) deliver legal services to defendants at a reasonable cost;
- 7) encourage the use of alternative dispute resolution techniques;
- 8) limit or eliminate joint and several liability;
- 9) eliminate the collateral source rule;
- 10) control the use and amounts of contingent fees; and
- 11) improve the quality of judicial education and selection.

Following the task force's report, the four participating organizations (DRI, IAIC, FIC, and AIA) formed the National Coalition on Litigation Cost Containment, which led to Lawyers for Civil Justice (see below).

Some of DRI's early goals to reform the justice system were being achieved in the 1980s. These included limitations on joint and several liability as well as caps on punitive and non-economic damages. As the decade wore on, however, it became apparent that a more active role was necessary.

A **Legislative Committee** was formed by the Board of Directors in 1989, for the purpose of informing the defense bar about important state and federal legislative proposals, and to take appropriate action when needed. The Committee relied on DRI staff lawyers to be alert and informed about pending legislation. Staff would then prepare analyses of these bills and share that information with the Committee and the SLDOs. The Legislative Committee in turn would select what it considered to be the most significant proposals, and take a position for or against. With the approval of the DRI Board of Directors, these positions would then be communicated to the appropriate Congressional committee. In May 1994, President James S. Oliphant gave live testimony to Congress on pending legislation. He spoke to the House Energy and Commerce Committee on HR 1910, the Fairness in Product Liability Act. DRI had become an important player in the legislative arena.



James S. Oliphant

Similarly at the state level, the DRI Legislative Committee would stimulate interest by the SLDOs in the legislative process. The Committee would assist and advise SLDOs in establishing local legislative proposals, drafting legislation, developing effective lobbying programs, and setting up political action committees. Finally, it published *Legislative Alert*, a newsletter distributed to all DRI members.

The nation's trial and appellate courts were another target of DRI's tort reform campaign, in recognition of the obviously crucial role the courts play in law development. To educate the courts as to the defense position, DRI set up an arrangement by which copies of *For The Defense* would be distributed free of charge to as many judges as possible. This distribution program was conducted in cooperation with state and local defense organizations; DRI and the participating SLDOs shared the cost.



Since 1985, at least
35 *amicus* briefs have
been prepared.

DRI established an *amicus curiae* program in the 1980s to advance the defense position in state and federal appellate courts. It operates under specific guidelines set by the Board of Directors. The **Amicus Curiae Committee** invites DRI members to submit requests that it consider preparing briefs in selected appellate cases. It reviews the petitions to determine whether an *amicus* brief in support of a particular defense position would be appropriate. If the Committee decides that a case raises issues of importance to the defense bar, or has the potential to establish precedents that affect defense lawyers, it will seek the approval of the DRI Board of Directors, and then assign writing of the brief and submission to the court. Since 1985, at least 35 *amicus* briefs have been prepared and filed.

Lawyers for Civil Justice

AS NOTED ABOVE, IN 1985 the National Coalition on Litigation Cost Containment was organized. The purpose of the coalition was to provide a vehicle for nationwide tort reform. Financial support for the Coalition was received from other defense groups, corporations, and insurance companies, and DRI provided staff support. Then, in 1987, the Coalition was re-born as Lawyers for Civil Justice, a non-profit organization with an office in Washington, D.C. and its own executive director and staff.

The original Board of Directors of LCJ was comprised of eight defense lawyers (two each appointed by DRI, IAIC, FIC, and AIA) and eight representatives of supporting corporations; the first President was Grant P. DuBois, a former President of the IAIC. With DRI's help, LCJ forged strong links with SLDOs, defense attorneys of national prominence, and corporate leaders. LCJ has always been independent of DRI, although many DRI leaders (including several Presidents) have served on the LCJ Board. The Presidency of LCJ rotates each year among past presidents of (what is now) the IADC, the FDCC, and DRI. The organization's Executive Director since its founding has been Barry Bauman.

The goals of Lawyers for Civil Justice were to create a network of defense lawyers, provide a united voice for defense lawyers, and inform the various publics of the differences between the plaintiffs' bar and the defense bar on the matter of tort reform. It also sought to promote a stronger link between the defense bar and the business community in order to influence legislative and judicial reform.

These goals were generally compatible with those of DRI, although the DRI representatives as a group were not quite as enthusiastic about the need for tort reform as were the corporate representatives. A special feature of LCJ is that it gave the defense bar a voice in the nation's capital and greater access to print and electronic media. It cultivated relationships with leading lawmakers in Washington, and made appearances before Congressional committees. For example, in 1990 the Senate Judiciary Committee held hearings on a proposal sponsored by the Association of Trial Lawyers of America to eliminate protective orders in civil litigation. DRI and LCJ representatives testified in opposition to the bill; as a result, the

proposal was not passed by Congress. The same sorts of effective and successful appearances were made in opposition to a bill that would have “nationalized” certain principles of products liability law that the defense bar opposed.

Lawyers for Civil Justice has promoted its agenda by contacting every federal trial and appellate judge to explain its position on tort reform and other goals, by an extensive public information program, and by proposing defense-oriented legislation.

In keeping with its own interest in close relations with the business community, DRI sponsors a Corporate Counsel Roundtable, a meeting of corporate executives, in-house counsel, and lawyers in private practice. The first Corporate Roundtable was held in 2001 and the second in 2003. Another is scheduled for 2006.

Reaching Out to All Defense Lawyers

INDIVIDUAL MEMBERSHIP IN DRI REACHED the 10,000 mark in 1982. More and more defense lawyers joined in the following years, so that by 1990 the total was 18,000. Significantly, only 4,000 were also members of one of the three traditional defense organizations—the International Association of Insurance Counsel, the Federation of Insurance Counsel, and the Association of Insurance Attorneys. Thus, 14,000 lawyers had joined simply because the products and activities being offered by the organization apparently appealed to their needs.

The increase in revenue from individual dues allowed DRI to offer more and higher quality materials and programs to the members. Membership solicitation was facilitated by the creation of a 12-minute video cassette entitled *The DRI Story*.

DRI recognized the need to communicate the defense message more effectively to the insurance industry and to corporate America. Special attention was directed to the interests and educational needs of corporate counsel, and a concerted effort was made to welcome them to DRI and listen to their concerns. Corporate membership was attracted by an improved and active seminar program, DRI’s member services, and the recognition by target defendants of the need for a national defense voice. As described by President Edward W. Mullins, Jr. in 1985: “DRI is in a position to bring corporations together with defense lawyers and insurance companies in a coordinated effort to correct the situation of expansive tort liability.”

A special focus on younger defense lawyers was a feature of this period. Recognizing the importance of reaching the “new generation” of lawyers, in 1988 DRI published a *Young Lawyer* brochure that was mailed to younger defense attorneys throughout the United States and Canada. A discounted membership fee for attorneys admitted to practice for fewer than five years was initiated. One free “ticket” to any DRI seminar was also part of the campaign to attract younger lawyers. Most importantly, a **Young Lawyers Committee** was formed by the Board of Directors in 1991 to plan and conduct seminars, publications (including a newsletter and articles in *For The Defense*), and other activities aimed at the special needs of the neophyte defense lawyer.



*Individual membership reached the **10,000** mark in 1982, and **18,000** in 1990*



Edward W.
Mullins, Jr.





Richard H.
Krochock

Kelly A. Freeman was the first Chair of the Young Lawyers Committee. Its membership, popularity, and importance to DRI has grown dramatically over the years. One member of the DRI Board of Directors, Richard H. Krochock, was especially helpful in guiding the early growth of the YLC. Following his much-too-early death in 1999, DRI established an award in his name. The Rich Krochock Award is presented annually to a DRI leader who has made extraordinary efforts to respond to the special needs of young defense lawyers. The special attention DRI devotes to young lawyers continues to this day.

Liaison with SLDOs and Regional Leaders

AS PART OF THEIR COOPERATION with DRI, state and local defense organizations were asked by DRI to undertake programs that would strengthen their presence and profile in their state or locality, and thereby to the ultimate benefit of the national defense group. They were asked to organize efforts to identify and promote the election or appointment of qualified judges and legislators from the defense community. Local political action groups were to be set up and ready to support legislative activity designed to restore balance in the civil justice system. The SLDOs were also asked to develop cohesive public relations programs to get the defense message across to the media and the public on matters such as the importance of jury duty, delay in the courts and excessive damages. The success of these initiatives was mixed; some states could point to a heightened defense profile and passage of defense-oriented legislation, while others were not able to gather sufficient resources to mount major campaigns.

The annual National Conference of Defense Bar Leaders continued to be a success. At the first such conference in 1969, several themes were stressed: the need for a national defense voice, tort reform, more effective continuing legal education programming, legislative action, and the need felt by many SLDOs for more administrative help in running their organizations.



*At the **1969** National Conference of Defense Bar Leaders, **18** groups were represented*

*In **1989**, **51** SLDOs were represented, with a total of **135** defense bar leaders in attendance*

*The final conference of this sort, held in **1995**, attracted **300** SLDO leaders*

During the 1980s, similar issues arose at the national conference. Some SLDOs pleaded for more assistance from DRI in their legislative, judicial, and informational programs. Thus, some were self-sufficient while others needed nurturing. Overall, however, the SLDOs were growing in membership program and effectiveness. And some were beginning to insist on a larger voice in the operation of DRI as a means of developing a united defense effort. The annual conferences provided the grass roots pressure for this trend. (Attendance was not, however, open to defense lawyers generally; it was an invitational event limited to office holders and staff of SLDOs. The more open DRI Annual Meeting did not begin until 1996.)

To illustrate the growth of the national conference and cooperation among the many SLDOs and DRI: at the 1969 conference, eighteen groups were represented; in 1989, fifty-one SLDOs were represented, with a total of 135 defense bar leaders in attendance. The final conference of this sort, held in 1995, attracted 300 SLDO

leaders. DRI volunteers and staff would work closely with the host SLDO (from a different state each year) in organizing each meeting.

In addition to the national conference, DRI assisted in organizing annual meetings of state and regional defense bar leaders including SLDO officers. These meetings provided a forum in which issues relating to defense practice could be aired, and action taken. They were also enjoyable social events.

In recognition of the SLDOs' work and contribution to the goals and programs of the defense bar, DRI established two annual awards in 1988 named in memory of past Presidents who were especially concerned with relations between the national group and the state and local organizations. The Rudolph A. Janata Award is given to the SLDO that has undertaken the most innovative or unique program contributing to the defense effort. The Fred H. Sievert Award is given to the SLDO individual leader who has made the greatest contribution to the goals of the defense community. In addition, Exceptional Performance Citations are presented each year to SLDOs and their leaders. The recipients are selected annually, although the presentations now take place at the DRI Annual Meeting, which replaced the National Conference of Defense Bar Leaders in 1996.

Along with the rising profile of the state and local defense organizations, the responsibilities of Regional Vice Presidents expanded from 1980 on. They, along with the state and area chairmen, assumed a role in stimulating new DRI membership in their regions; they also served as liaisons with SLDOs and kept the Officers and Board of Directors alert to relevant legislative and other developments.

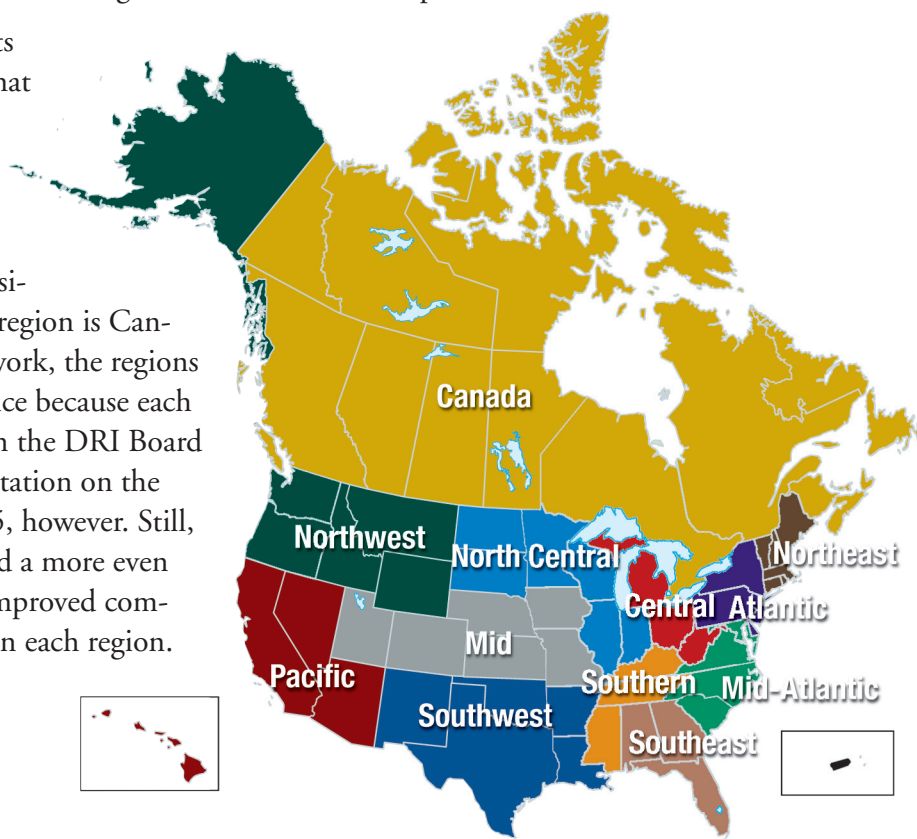
In 1989, DRI restructured its regions into the arrangement that continues to this day (2005). The United States is now divided into eleven geographic regions, each with roughly the same number of resident DRI members. A twelfth region is Canada. As described later in this work, the regions now have heightened importance because each elects one of its own to serve on the DRI Board of Directors. Regional representation on the Board did not begin until 1995, however. Still, the 1989 restructuring provided a more even distribution of members and improved communications among the states in each region.



Rudolph A. Janata



Fred H. Sievert, Jr.



Seminars: The Path to Financial Stability

FROM THE FIRST YEARS OF DRI, membership dues had been the primary source of income to support the varied activities of the organization. By the early 1980s, DRI faced a potential problem: membership dues were not generating enough revenue to meet the costs of its increasingly ambitious projects. The organization's overall financial situation was actually quite precarious in the mid-1980s. Edward W. Mullins, Jr., DRI President in 1985, recalls that the budget was so tight that when he visited Chicago on DRI business, he was obliged to pass up downtown hotels and instead stay at Lou Potter's house and ride to the DRI office in Lou's 1975 Volkswagen!

The Board of Directors considered means to raise more revenue. Two approaches became clear: an increase in dues, and/or expansion of the continuing legal education program. Eventually the Board approved a dues increase. But what truly assured a solid financial base for DRI was the expansion of its seminar program in the mid-1980s and its resulting popularity with defense attorneys.

Defense Practice Seminars had long been part of DRI's educational efforts, and the early decades were noted for some outstanding seminars, but the program didn't become a major DRI activity until the 1980s. Early in that decade, leaders such as Joseph A. Sherman and Donald F. Pierce saw the potential benefits for DRI and thus fostered growth of the seminar program as a lucrative means of generating revenue. This approach lessened the dependency on membership dues, which the IAIC was reluctant to raise. Nevertheless, the large attendance numbers at the asbestos litigation and products liability seminars in particular convinced the Board that this was a path to financial independence. In addition, the seminars proved to be an effective means of raising DRI's profile and name recognition among defense lawyers. And the quality of the educational experience was not lessened.

Between 1976 and 1994, a total of 270 Defense Practice Seminars had been held. An all-time high of twenty-six seminars were held in the latter year. Revenues rose steadily as more and more defense practitioners discovered that the education being offered had practical value for them. This boosted the DRI bottom line, so that by 1990 DRI was able to offer more and better seminars—as well as allowing the organization to undertake new projects in a variety of fields. The spread of mandatory continuing legal education requirements in most of the states was another inducement for defense lawyers to attend DRI seminars. In recent years, an additional source of revenue has been sponsorship fees, *i.e.*, payments by law firms and companies that provide a variety of services to defense lawyers and who wish to display those services at DRI seminars.

For The Defense and Other Publications

THE BULK OF THE EDITORIAL content of *For The Defense*, DRI's flagship publication has always been articles on defense law and practice submitted by practicing defense attorneys. In addition to the lawyers, specialists in fields such as jury



Joseph A. Sherman



Donald F. Pierce



Between 1976 and 1994, a total of 270 Defense Practice Seminars had been held

selection, accident reconstruction, damages calculation, and application of technology to litigation sent manuscripts to the *FTD* editorial staff for possible publication. The magazine presented broad, pragmatic coverage of defense law-related matters. Its mix of topics balanced writing on substantive law developments with tips and practical advice on litigation and trial issues. The full range of defense-oriented subject matter was presented, with some emphasis on areas in which substantial numbers of readers practice: insurance coverage, employment law, environmental law, products liability, professional liability, discovery, and trial tactics.

A typical monthly issue of *FTD* in the 1980s would contain the following. “On The Record” occupied the first page. This was a message from one of DRI’s leaders, usually addressing an issue of importance to DRI and/or the defense bar. A DRI News section contained several items describing recent meetings of defense groups, activities of DRI leaders, or efforts to influence pending legislation. Recent appellate court decisions that could affect defense lawyers were analyzed. Profiles of state and local defense organizations and individual members were included occasionally. Then, a variety of “feature” articles would fill the remaining pages of each monthly issue. Other than announcements of upcoming DRI seminars, publications, or member services, no advertising appeared in *FTD* until 2000.

The content and format of *For The Defense* have never been set in stone. Separate sections on “Defense Law News,” “Recent Cases,” “Member of the Month,” “Defense Update,” and other columns have come into the magazine, and then gone. Thus, in the 1990s and later, the size, specific content, format, and artwork of the magazine, as well as the sources of writing, would change somewhat, but the core—articles on subjects that appeal to a broad range of defense lawyers—remains the same.

Since DRI’s beginning, *For The Defense* has been distributed as a benefit of membership; its production and distribution costs, which are considerable, are covered by dues. In addition to individual members, *FTD* is sent to non-member subscribers (e.g., libraries, insurance companies) and to every state and federal trial and appellate judge including magistrates in the United States. The distribution list extends to the Justices of the United States Supreme Court. By 1990, more than 27,000 copies were being distributed each month.

Of course, the DRI publications program has never been limited to *For The Defense*. Monographs and the closely related “special publications” were written and published frequently in DRI’s early years (see pages 9–10), well into



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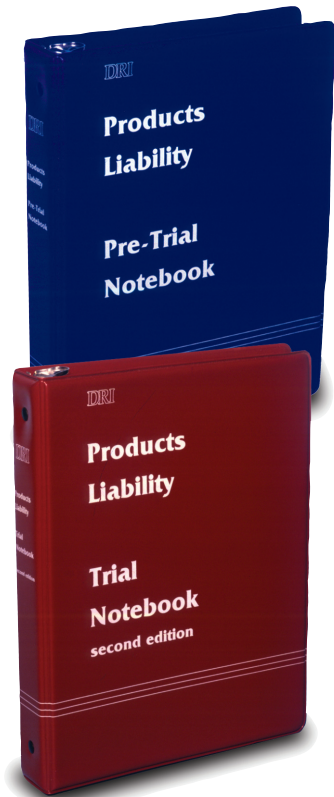
the 1990s. Monographs were sent to all DRI members, while a special publication went to all members of a committee that had a special interest in the topic. With the expanding membership numbers, as well as the rising costs of production and distribution, however, this policy began to be questioned in the 1990s. The typical member might be interested in the subject matter of only a few of the monographs, yet was receiving all. Eventually, in 1997, DRI ended free distribution. While DRI continues to produce published studies of trends in the law and practice, they are no longer designated “monographs” or “special publications.”

Instead, they are now part of the “Defense Library Series.”

In addition to *For The Defense* and monographs, DRI published book-length guides for defense lawyers in the 1970s and 1980s. They were sold to interested parties. The most popular were *Annotated Comprehensive General Liability Policy*, *Products Liability Pre-Trial Notebook*, and *Products Liability Trial Notebook*.

In the 1980s, DRI practice and substantive law committees were becoming increasingly active in producing writing for publication. Several of the committees put together newsletters regularly, prepared monographs, and committee-connected articles began appearing in *FTD*. *Committee Quarterly*, describing the ongoing work of the various committees, appeared in *FTD* for several years in the 1980s and 1990s. The full flowering of committee involvement in publications was yet in the future, however.

Because of the central importance of the publications program to DRI, the organization decided to formally recognize excellence in writing. In 1989, the Board of Directors established the G. Duffield Smith, Jr. Award in memory of a DRI President who was deeply involved with the DRI publications program. It is presented each year at the Annual Meeting to the author of the most outstanding piece of writing published by DRI.



Meeting the Demand for Services

DRI's LITIGATION SUPPORT SERVICES, PROVIDED by staff at DRI headquarters, continued as one of the most popular benefits of membership. New reference material—names of experts, arbitrators, or research documents—flowed into the Chicago office at a steady rate; much of this data is provided voluntarily by DRI members.

During the 1980s, DRI leaders monitored the operation of the various support services, to ensure that members would be able to maximize the potential benefits; the administrative capability of DRI to continue to provide those services was also assessed. In particular, in 1985 President Edward W. Mullins, Jr. asked G. Duffield Smith, Jr. to undertake a comprehensive study of the Expert Witness Database and suggest improvements to vitalize the service. With the implementation of Mr. Smith's suggestions, the EWD became the most frequently used service as defense lawyers' reliance on experts in preparing for litigation increasingly became the norm. The Database continued to expand and refine its store of information

on both defense and plaintiffs' experts. By 1990, information of varying breadth and depth on more than 18,000 experts was on file for examination and use. The Database provided names, contact information, resumes, litigation experience, transcripts of testimony in prior cases, and other relevant material on the experts. In addition, names of defense attorneys who had retained each expert and thus were familiar with their work were provided.

Computerization, a major step initiated following Duffield Smith's study, has made the Expert Witness Database readily accessible. In addition to obtaining names quickly, computerized research tools and techniques were applied to enable staff to identify an expert's writings and litigation experience. By 1990, the staff was servicing about 200 requests each month.

Until 1999, DRI maintained a Brief Bank, consisting of briefs prepared for use in previously litigated cases. Members could request copies of briefs that appeared to suggest arguments and strategies that could be applied to current litigation. Their subject matter covered all areas of defense practice; the greatest demand was for those dealing with insurance, products liability, professional liability, toxic torts, and punitive damages. By 1990, the number of briefs on file at DRI headquarters exceeded 2,000. However, the demand for this service began to fall off in the 1990s. Moreover, the sheer physical bulk of these briefs (relatively few were in electronic format) virtually overwhelmed DRI's storage and shipping capacity, and a decision was made in 1999 to terminate the Brief Bank.

A similar fate befell the individualized legal research service. While it was in operation, requests ranged from finding published articles on a particular legal issue to full scale research of statutes and case law precedents. The staff lawyer dealing with the request would not prepare a formal memorandum of law, and instead would provide selected materials and citations to statutes and court decisions. Because of its labor-intensive, individualized nature, the research service was deemed not cost-effective, and was dropped in 1997. It has been replaced by an online, searchable database of DRI published materials, which is now offered without charge to the membership.

The arbitration program filled requests for assistance in the resolution of legal disputes outside the courtroom. DRI staff kept current a list of volunteer arbitrators and was able to add hundred of names. However, the arbitration program never reached the full potential envisioned by the founders in the early 1960s. Insurance companies appear to prefer their own internal panels for arbitration of claims. For this reason, the arbitration program was dropped in the early 1990s.

Cooperative Ventures with Law Schools

THROUGHOUT ITS HISTORY, DRI'S RELATIONS with law academe have been alternatively close and more distant. In the early decades, the connections, first with Syracuse University Law School and then with Marquette University Law School, were quite close and active. A steady stream of Marquette law students was employed as



Expert Witness Database:

*By 1990, information of varying breadth and depth on more than **18,000** experts was on file*

part-time law clerks to perform research on DRI projects. The arrangement also provided the students with valuable research and writing experiences. A tuition scholarship was funded by DRI for a Marquette law student for each year from 1974 to 1981.

With the resignation of Jack Kircher in 1981 and the move to Chicago in 1984, the law school ties loosened. Don Hirsch did teach a seminar on insurance law for several years as an adjunct professor at Northwestern University School of Law. While DRI was housed on the Northwestern campus, law students from Chicago-area schools continued to undertake research assignments for DRI. The de-emphasis on law school presence at DRI headquarters has continued under Potter's successor, John R. Kouris. A major contributing factor to the decreased use of law students was the unwillingness of these individuals to work for the fee DRI was able to pay.



Thomas J.
Weithers, Jr.

In 1985, a scholarship was established by DRI in memory of Thomas J. Weithers, Jr., a Chicago defense lawyer, graduate of DePaul University College of Law, and DRI's President in 1978. DRI donated \$50,000 to DePaul to endow the permanent scholarship, which continues to provide assistance to a DePaul student each year.

In the mid-1990s, a DRI special committee undertook a law school-focused project on legal ethics and professional responsibility. A comprehensive curriculum for the one-day program was developed. DRI leaders, in conjunction with law professors, presented the program at eight different law schools around the country in 1996 and 1997. In addition to teaching proper professional conduct, the project aimed to familiarize future lawyers with defense practice and the benefits of joining DRI. Students had some interest, but the level of enthusiasm was not high, and the effort was dropped after two years.

Relations with the Public and the Media

DRI LEADERS HAD LONG RECOGNIZED the need to communicate the defense story to a variety of constituencies: manufacturers, insurance companies, trade associations, and other defense groups. It also needed to reach the general public—the people who sit on juries and pay insurance premiums. In the 1960s, DRI had started a public relations program; it was directed for many years by William Kotlowski. Overall, the program's results were not impressive. By the mid-1980s, the need for a new, more vigorous approach was recognized.

■■■■■
DRI first had to make the print and electronic media aware of the defense bar's mission to bring balance to the civil justice system.

The strong interest in more effective public relations was, at least to some extent, a reaction to the success enjoyed by the Association of Trial Lawyers of America (ATLA) in conveying *its* message to the public. To reach the audience, DRI first had to make the print and electronic media aware of the defense bar's mission to bring balance to the civil justice system. DRI had to clarify that defense trial lawyers have an identity and a viewpoint that is distinct from the plaintiffs'

trial lawyers. The overall goal was to inform interested groups and the public about the defense's efforts to level the playing field and thereby benefit all equally.

Spearheaded by G. Duffield Smith, Jr., in the 1980s DRI put together a public relations program aimed to increase its overall visibility and that of the defense bar, to promote the value of DRI's services and programs, and to enhance its relationship with SLDOs and allied professional and business associations. It also focused on informing the American public about defense values and goals. With the appointment of a new public relations director as part of the staff (Susan Zeller), and the retention of a nationally prominent public relations firm (Ruder Finn), DRI hoped to solidify the organization's public relations planning and establish its credibility with the media.

DRI Officers participated in comprehensive media training, intended to prepare them for television, radio, and print news interviews. They went on media tours to meet the editors of the nation's most influential newspapers and TV news programs. Opportunities for publicity were sought out, by both the staff PR director and the PR firm, and leaders of SLDOs were also trained in media relations, and made available for interviews in local and state outlets.

By the end of the 1980s, DRI was better known to the print and electronic media and was being contacted regularly for comment on a wide array of legal issues. Calls came from national publications such as *Forbes*, *U.S. News & World Report*, *National Law Journal*, *Medical Economics*, *Business Insurance*, and the *Wall Street Journal*. DRI was truly coming to be recognized as "the voice of the defense bar."

One of the public relations issues that came to prominence in the late 1980s was the appropriate use of the label "trial lawyers." This term had effectively been adopted by the plaintiff's bar as its own, when it renamed its group Association of Trial Lawyers of America in 1972. ATLA's promotion of the name had become so effective by the 1980s that the popular media had come to accept that "trial lawyers" were those attorneys who recklessly initiated lawsuits and aggressively sought huge awards for their plaintiff clients. This had the effect of damaging, in the public's mind, the image of those trial lawyers who defended clients and attempted to keep verdict amounts within reasonable parameters.

DRI leaders, especially 1988 President James W. Morris III, countered, first by pointing out the obvious fact that all civil trials involve both plaintiffs' lawyers and defense lawyers, and thus both sides have "trial lawyers." Then, President Morris and others mounted a campaign to urge newspapers, radio, and television to correct ATLA's faulty image of trial lawyers that the media had accepted and disseminated to the American public. Finally, he asked through an article in *For The Defense* that DRI members be prepared to correct the improper use of the term and instead remind the public that the trial lawyers being criticized were in fact "plaintiffs' lawyers." The campaign enjoyed some success. Major newspapers published the requested clarifications; *The New York Times* even published a lead editorial to remind the public.



James W. Morris III

Related to the “trial lawyers” matter was the public relations effort aimed at creating a positive image or a “brand.” This again raised the question of the propriety of the organization’s name—the Defense Research Institute. Some thought that it could be confused with federal government agencies, particularly those within the Department of Defense. Others thought that the name did not reflect the fact that most individual members of DRI were practicing lawyers, many of them litigators and trial lawyers. Alternate names were proposed and studied. Some persons wanted a catchier label as a counter to ATLA; they suggested “The Defense Research and Trial Lawyers Association,” a name that was actually used by some members, and appeared on DRI letterhead stationery, for a period of a few years. A committee chaired by 1983 President Robert C. Maynard proposed “DRI—An Association of Defense Trial Lawyers.” To date no formal action has been taken to change the name. After a study, the Board of Directors decided in 1989 that changing the name would result in confusion and a loss of 29 years of name recognition and good will and that the proposed alternatives were not clearly an improvement.



Thus, Defense Research Institute, Inc. remains the formal name. In recent years, however, members, leaders, and staff have been encouraged to refer to the organization as “DRI” at all times. Distinctive logos and badges of identity focus on “DRI” with the line “The Voice of the Defense Bar.”

Interestingly, while DRI decided not to change its formal name, each of the three traditional defense groups did adopt new names in the last two decades of the century. The International Association of Insurance Counsel became the International Association of Defense Counsel (IADC) in 1985. The Federation of Insurance Counsel became the Federation of Insurance and Corporate Counsel in 1985, and then the Federation of Defense and Corporate Counsel (FDCC) in 2000. The Association of Insurance Attorneys became the Association of Defense Trial Attorneys (ADTA) in 1988. These name changes may reflect those organizations’ perception that their members’ practice interests had gone well beyond insurance defense. [In this history, from this point on, each of the three groups will be referred to by the new names adopted in the 1980s and 1990s.]

DRI’s logo through the years.



A New Beginning

First Steps on the Road to Autonomy

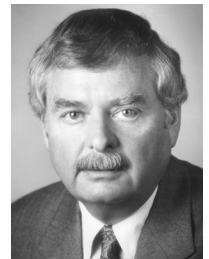
THE FOUNDERS OF DRI HAD as one of their aims to develop a cohesive organizational force that would protect and further the rights of all defendants in civil litigation, with the end to retaining the adversary-jury system and ensuring that there is justice for plaintiff and defendant alike. Much of DRI's activity since 1960 has been intended to accomplish this goal.

The 1980s witnessed a surge from the leaders of DRI and the state and local defense organizations for fundamental change in the nature and governance of DRI. Long before any open, positive steps were taken on the road to autonomy, the notion of separation from the IADC had been discussed. Among those who yearned for independence in the early 1980s, and frequently discussed the idea, were future Presidents Edward W. Mullins, Jr., Ernest B. Lageson, James W. Morris III, G. Duffield Smith, Jr., Thomas M. Crisham, Archie S. Robinson, Robert D. Monnin, and Stephen J. Paris. By the time Ernie Lageson ascended to the Presidency in 1986, the group's notions for the future of DRI had crystallized.

In short, these leaders wanted a strong dynamic national association of defense lawyers that would truly be the voice of the defense bar and able to pursue whatever policies and projects deemed most appropriate for the advancement of defense lawyers. These DRI advocates sought to provide SLDOs with more representation in the DRI leadership and confirm that DRI was a membership rather than a subscriber organization that ultimately would have national meetings open to all members and possess autonomous, independent leadership by the DRI Board of Directors. With the expanded corporate membership, there was also a demand for greater corporate involvement in deciding DRI policies.

Pressure for change was also coming from several of the SLDOs, especially the state groups in California, Texas, Florida, and North Carolina. They wanted DRI to be more aggressive in assuming its role as the national voice for the defense bar, as an advocate for the needs of rank-and-file defense lawyers in the states.

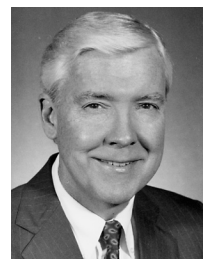
In order to bring the issue out in the open and provoke discussion of the need for DRI autonomy, President Lageson appointed a **Structures Committee**. Its mission was to study the DRI governing structure and determine whether and how the structure could be modified to provide a greater governing role for SLDOs and the practice and substantive law committees, the holding of national membership meetings, and a more autonomous DRI. The Structures Committee was composed of President-Elect Donald F. Pierce, Past President Joseph A. Sherman, former Secretary-Treasurer Michael J. Pfau, George B. McGugin (a past President of the IADC), James B. Hiers, Jr. (a past President of the FDCC), and Robert H. Hood (a past President of the ADTA). Two future Presidents of DRI, Jimmy Morris and Duffield Smith, also attended most of the meetings of the committee. After a long study, the committee issued its report in 1987 and made these observations.



Ernest B. Lageson



Archie S. Robinson



Robert D. Monnin



Stephen J. Paris



George B. McGugin



James B. Hiers, Jr.



Robert H. Hood

- 1) DRI should continue to seek excellence in its research, publication, and educational roles.
- 2) During the past twenty-five years dramatic changes in the law and the environment in which tort disputes are resolved have occurred and the future indicates that developments will be equally dramatic and profound. Therefore, DRI must change with the environment and continue to grow so as to be relevant to its members.
- 3) Historically, the institutional focus of the defense lawyer has been to the courtroom, but events far from the courtroom are having an enormous impact on the development of contemporary tort law and practice.
- 4) If DRI is to support and work for the improvement of the adversary system of jurisprudence in the operation of the courts, it must provide advocacy on matters debated wherever the debate takes place.
- 5) DRI is the natural organization to provide leadership to the defense community which calls for it to become a national spokesperson for the defense community.
- 6) State and local defense organizations are turning to DRI for expertise in legislative matters and as the entity to establish a visible position for the defense lawyer among those institutions and individuals who influence public policy in the civil justice system.

Based on these observations, the Structures Committee then made some specific recommendations.

- 1) DRI should be allowed to exercise greater autonomy and control over its activities.
- 2) DRI must substantially upgrade its public relations activities based on the premise that the defense lawyer is different than a plaintiffs' lawyer, and because of this unique identity, defense lawyers have a unique perspective which is to be communicated to the public at large.
- 3) The Board of Directors of DRI should have a broader representation drawn from a wider base, including selection of Directors on a regional basis and members active as committee chairs for DRI and seminar areas.
- 4) DRI should hold national membership meetings.
- 5) Officers should meet periodically with the professional staff of DRI.
- 6) Contacts with corporate trade associations should be expanded.
- 7) Computer capability at DRI headquarters should be enhanced.

Following the report of the Structures Committee, there was considerable debate during Board meetings and meetings of the IADC Executive Committee. Strong opposition to some of the recommendations was voiced by IADC. A 1986

meeting in Chicago, bringing together leaders of DRI, IADC, FDCC, and ADTA, foretold the struggles over upcoming issues. President Lageson recalls that “the meeting was one marked by divisiveness.” It should be noted that the FDCC and ADTA representatives on the DRI Board generally supported DRI’s goal of self-rule; this support helped a great deal in ultimately convincing the IADC to reach an agreement with DRI. It also bears mentioning that the IADC opposition was primarily from the senior leaders of that organization at that time, and the regular members of IADC had little concern about DRI.

The recommendations of the Structures Committee were not acted upon formally. One immediate result of the report was the creation of Lawyers for Civil Justice (see page 32), which some hoped would become the national voice for the defense bar. However, LCJ simply did not have the resources or the membership base to undertake this role.

The **Long Range Planning Committee** replaced the Structures Committee in 1989. Its function was to fashion a new governing structure that would rule DRI once its anticipated separation from the IADC was complete. The committee worked on this project for several years.

Reflecting on his action in creating the Structures Committee, Ernie Lageson stated his aims clearly:

My goal as President was to strengthen DRI as a national spokesman for the defense bar. It was my desire to unite defense lawyers around the country, with DRI as their national leader. This would include the three national social defense organizations, the more than 50 state and local defense organizations, and the thousands of otherwise unaffiliated defense lawyers nationwide who belonged to DRI. I envisioned DRI as the organization that was called on by the media, legislative bodies, or outside organizations, to represent and express the interests of defense lawyers on a national scale. While the state and local defense groups could speak for their members within their own state, DRI would speak for the defense nationally. I feel that my major contribution to DRI during my year as President was to put DRI on the path to become an autonomous organization, free from the control of the IADC.

Organizational Growth

DRI’s CRIES FOR GREATER AUTONOMY and independence from the IADC became louder and stronger in the early 1990s. Finally, in 1992, the structure and control of DRI changed dramatically. DRI efforts were focused on the desire to abolish the Voting members structure and empower the Board of Directors (with members appointed by DRI) to become the governing body of the organization.

In this campaign, the DRI team was led by President Archie S. Robinson, and included Past Presidents James W. Morris III and Thomas M. Crisham, future Presidents Robert D. Monnin, Stephen J. Paris, and Claude H. Smart, Jr., and

Executive Director Louis B. Potter, IADC President Morris R. Zucker and incoming President Jay H. Tressler presented a strong defense of the IADC position in the debate over the future of DRI. As negotiations progressed, more moderate IADC leaders such as Robert P. Karr, David J. Beck, and George B. McGugin played key roles. All of these gentlemen gave selflessly and tirelessly of their time and talent throughout 1990 (and for a couple of years following) until the complex issues were finally resolved.

Several meetings between IADC and DRI representatives occurred over the summer of 1990. One of the key concerns was the composition of the five-person **DRI Nominating Committee**, which had the essential power to name the DRI Officers and Board of Directors. The IADC was allowed to appoint three of the five.

During this time, the other two traditional national defense lawyer groups expressed general support for DRI's ambition. D. Dudley Oldham, representing the Federation of Defense and Corporate Counsel, opined that the tension between the IADC and DRI may have been caused by the build-up of DRI's treasury, at a time when the IADC's was diminishing. He wondered why the Voting members, and not the DRI Board of Directors, was the organization's ultimate governing body. R. Rees Brock, representing the Association of Defense Trial Attorneys, suggested that DRI set forth its "wish list" for changes in its governance and control.

As the meetings between IADC and DRI progressed into the fall of 1990, the essential issues became clearer. DRI had one central desire: total separation from the IADC, and the freedom to develop and operate its organization as its Board of Directors so determined. The IADC feared loss of its control over DRI, but began to see that there probably was no alternative. DRI responded, first, that IADC would retain some power in the new governing structure by virtue of having three seats on the DRI Board of Directors. It also reassured that it had absolutely no intention of disturbing the IADC Trial Academy in Boulder, Colorado. Finally, DRI tentatively agreed to make a substantial cash contribution to the IADC Foundation.

Agreement on the basic issues was reached during 1991 and the early months of 1992, as the IADC gradually accepted the inevitability of the separation. Ultimately, according to Jimmy Morris, the separation was "measured, reasonably non-confrontational, with rational discourse."

DRI Autonomy

IN 1992 DRI FINALLY REACHED the first step to administrative independence after some 32 years of existence. It consummated an agreement with its founder, the International Association of Defense Counsel, whereby, among other things, self-rule was promised. The independence, achieved when the 1992 agreement was ratified in 1995, resulted in numerous administrative and governance changes in the way that DRI would function and elect its leaders. It also allowed for an expanded activism on tort reform and other issues important to defense lawyers.

July 7, 1992 witnessed the rebirth of DRI when a memorandum of understanding was entered into by David J. Beck, President of IADC and Stephen J. Paris, President of DRI. The memorandum restructured all aspects of DRI's leadership so that the administration of DRI would henceforth be in the control of the membership. It was subsequently ratified in February 1995 by the Boards of DRI and the IADC. Implementation was to take place over a period of years beginning in 1995, and it would be fully implemented by 1998.



David J. Beck

In the months leading up to July 7, the details of the memorandum of understanding were drafted and debated by a committee made up of Past Presidents of IADC (William K. Christovich, Robert P. Karr, and James E. Pohlman) and DRI (Joseph A. Sherman, Thomas M. Crisham, and Ernest B. Lageson). The committee negotiated a number of organizational issues, including the amount of the grant to the IADC Foundation (see below). It also decided ways to smoothly implement the changes called for by the memorandum, as well as ways the two groups might work together in the future. With most of the issues settled, the committee engaged in fruitful discussions in a spirit of cooperation.

Writing in *For The Defense* in January 1993, Steve Paris observed that:

...DRI now has the structure to function effectively as the conduit for the exchange of information and as the implement for pursuing the interests of the defense bar everywhere. DRI can now look forward to a future of working creatively and cooperatively with our sister national and local defense organizations for the good of us all... while continuing its day-to-day activities which have made it indispensable to the defense lawyer.

Two years later, the new arrangement was summed up in 1995 by Kevin J. Dunne, President of the IADC:

If DRI were to become the voice of the defense bar nationwide, however, it had to be a true representative of all defense lawyers around the country. The memorandum of understanding envisioned a DRI that would be both a ground-up dominated organization and at the same time have the benefit of representation of leaders from the IADC, FDCC, and ADTA.

The creation of a representative national defense organization was the result of dedication, farsightedness, and statesmanship on the part of many defense bar leaders. Creativity and compromise were required. The result is the rebirth of a 35-year-old powerful, representative, well-run national defense organization. It is an achievement in which all defense lawyers can take pride.

As part of the 1992 agreement for self-rule, DRI made a grant of \$750,000 to the IADC Foundation in acknowledgement of the some thirty-two years of support by IADC that it had enjoyed. The grant has been a substantial benefit to IADC; it has enabled the group to enhance its annual meetings, improve its edu-

cational programs, and generally be of greater service to its membership. And the amount of the grant posed no large financial hardship for DRI.

DRI has managed to maintain cordial relations with the IADC, the FDCC, and the ADTA since the separation agreement in 1992. As noted below, the three associations have representation on the DRI Board of Directors. In addition, reports of their activities (such as the Trial Academy) have been featured in *For The Defense*. Moreover, a “spirit of cooperation” has developed in recent years, according to one DRI Past President. For instance, DRI lawyers now speak at IADC and FDCC educational meetings.

In sum, DRI’s increasing membership, the clamor by the SLDOs and corporate counsel for more involvement in DRI governance, the demand from SLDOs for a more active legislative lobbying program, threats by some SLDOs to form a rival national defense group, and the need for a national defense voice created the groundswell of support for the self-rule that was finally achieved in 1992.

The New Governing Structure

PRIOR TO DRI’S SEPARATION FROM the IADC, the Active or Voting members had the awesome powers of electing Board members and Officers, setting the dues, and amending the By-Laws. Under the reorganization, there was to be an interim period when the majority of the Voting members would consist of DRI Officers and past Presidents. Then, in 1998, the Voting members would cease to exist and the powers they previously exercised would rest in the Board of Directors.

As noted above, the Long Range Planning Committee worked diligently from 1989 on to set up a new governing structure. The committee was chaired by Stephen J. Paris; other members were James W. Morris III, Archie S. Robinson, Robert D. Monnin, and Claude H. Smart, Jr. Later, James S. Oliphant and Stephen G. Morrison joined the committee as they were elected to DRI Officer positions. Also known as the Structures Committee (not to be confused with Ernest Lageson’s earlier committee of the same name), its efforts resulted in the organization described below that was approved by the Voting members in 1995 and that has operated smoothly and efficiently over the first decade of the “new DRI.”

The Structures Committee did not limit its agenda to implementation of the new DRI governing arrangement. Consisting of virtually all of DRI’s top leaders at the time, its meetings were “brainstorming” sessions that reviewed all of DRI’s activities and planned for the long term of the organization. It even hired a professional “facilitator” to keep the committee’s planning activities on track.

The make-up of DRI’s Officer corps has undergone several changes over the years since 1960. By 1987, DRI had nine Officers. Six of the nine were on the “ladder”—meaning that once an individual was selected to be Vice President-Information or Vice President-Public Relations, such person would automatically move up each year, first to Vice President-Administration, then to President-Elect, President,



Claude H.
Smart, Jr.



Stephen G.
Morrison

Chairman of the Board, and Honorary Chairman. The remaining three Officers were Vice President–Corporate, Vice President–Insurance, and Secretary-Treasurer.

By 1995, under the new structure, the number of Officers had been reduced to six; this structure is still in place today (2005). Now, the “ladder,” or the multi-year process of “going through the chairs,” begins with election to the post of Second Vice President followed each succeeding year by First Vice President, President-Elect, President, and Immediate Past President. The position of Secretary-Treasurer completes the Officer corps. Service on the Board of Directors is a prerequisite to election to an Officer position.

In 1990, the Board of Directors consisted of eighteen members in addition to the Officers, the majority of whom were members of the IADC. By the end of 1995, however, the new structure was in place, dramatically changing the make-up of the Board. It now has thirty-three members, in addition to the Officers, twenty-four of whom have been elected by the existing Board and by the members resident in the twelve regions into which DRI divides the United States and Canada.

The current DRI Board of Directors is selected in three separate groupings. The first group, designated “Directors Elected Nationally,” is elected by the existing Board on recommendation of the DRI National Nominating Committee. The latter committee has five members, three of whom are recent past Presidents of DRI; the other two are appointed by the President. Because there are twelve Directors Elected Nationally, and each serves a three-year term, four new Directors are elected each year.

The second group is known as “Directors Elected Regionally.” They are selected by open vote of all DRI members in the region the Director will represent on the Board. The regional elections are organized by representatives of each SLDO in the particular region. Each Director Elected Regionally serves for three years, so four new Directors are elected each year.

The final group consists of three representatives (typically, the top officers) from each of the three traditional organizations—the IADC, FDCC, and ADTA.

The position of Regional Vice President was abolished in the new structure. Instead, each region now has its own elected member of the Board of Directors, as noted above. In addition, the SLDOs in each state appoint a DRI State Representative (not a Board position), to serve as a liaison between the SLDOs and DRI. The State Representative has a role similar to that of the state and area chairman that had been part of the DRI structure since the 1960s, and which was abolished along with the Regional Vice President position. These moves, in effect since 1995, underscore DRI’s commitment to a major governance role for state and regional leaders.

The election by the existing Board of a new Second Vice President and the Directors Elected Nationally takes place each year at the DRI Annual Meeting. In recent years, three or four candidates have vied for the Second Vice President posi-

tion, while as many as fifteen have sought one of the four Director seats. Each candidate is profiled in *For The Defense* in advance of the election. At the Annual Meeting, the National Nominating Committee interviews each candidate, and considers input from the DRI Officers, Board of Directors, Executive Director and members in making its recommendations. The Nominating Committee also recommends the Secretary-Treasurer at the Annual Meeting; the term for that position is one year. Formerly, DRI elections were held in February, at the mid-winter meeting of the IADC. The national elections shifted to the DRI Annual Meeting in October beginning in 1999. At the Annual Meeting, every attendee is invited to express his or her views on the various candidates to the National Nominating Committee. The overall result is a more open, public electoral process than in DRI's first few decades.

Separate from the Board of Directors is the **Senior Advisory Committee**, comprised of the six most recent Past Presidents of DRI. This group looks closely at the current activities and governance of the organization, and then makes recommendations for the Board's consideration. Because they are based on the experience and familiarity of long-time leaders of DRI, these recommendations carry much weight.

The By-Laws

SINCE ITS FOUNDING IN 1960, DRI has been governed by By-Laws that set forth most of the fundamental structural rules of the organization. Numbered articles deal with matters such as the purpose of DRI, its membership categories, the Board of Directors and Officers, State Representatives, election procedures, and staff employees. The By-Laws create and specify the membership and duties of the all-important Executive Committee. They also cover financial matters such as the fiscal year, contracting on behalf of DRI, and indemnification of Officers and Directors.

The current set of By-Laws was adopted in 1998, the year the Board of Directors took over full control of DRI from the former "Voting members." They are amended from time to time by the Board, as necessitated by the organization's changing needs.

Mission and Roles

IN ADDITION TO PUTTING TOGETHER the governing structure for the new DRI, the Long Range Planning (or Structures) Committee developed a fresh mission statement for DRI to replace the somewhat cumbersome statement adopted in 1960 (see pages 4–5). The more concise statement, approved by the Board of Directors in 1995, provides:

The Defense Research Institute is the national membership organization of all lawyers involved in the defense of civil litigation. DRI is committed to:

- 1) enhancing the skills, effectiveness, and professionalism of defense lawyers;

- 2) anticipating and addressing issues germane to defense lawyers and the civil justice system;
- 3) promoting appreciation of the role of the defense lawyer; and
- 4) improving the civil justice system and preserving the civil jury.

To accompany the mission statement, in 1995 President Stephen G. Morrison drafted a list of five significant roles to be played by DRI as the basis for its future agenda:

Education: To teach and educate and to improve the skills of the defense law practitioner. To that end, DRI has dedicated itself to producing the highest quality practice seminars and publications for the defense lawyer.

Justice: To strive for improvement in the civil justice system, by participating in the debate over issues such as pre-discovery disclosure, retention of the civil jury trial, and punitive damages.

Balance: To be a counterpoint to the Association of Trial Lawyers of America. We must seek balance in the justice system in the minds of potential jurors and on all fields where disputes are resolved.

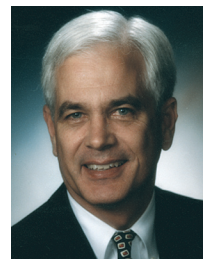
Economics: To assist its members to deal with the economic realities of the law practice, including the competitive legal marketplace.

Professionalism and Service: DRI should urge its members to practice ethically and responsibly, keeping in mind the lawyer's responsibilities that go beyond the interest of the client to the good of American society generally.

These inspiring statements of mission and roles indicate that a new spirit and look to the future would characterize DRI from the mid-1990s on. While reaffirming that publications and CLE seminars would continue to be the primary activities of DRI, a new activism would emphasize DRI's positions on matters of public policy and define the role of the defense lawyer on a national level.

The Structures Committee felt strongly that DRI must continue to be responsive to the needs of the SLDOs, and serve as an umbrella organization for them. Concerted efforts were made to involve chairs of practice and substantive law committees and the State Representatives in the leadership councils of DRI and, through them, to reach out and urge each individual member to take a role in the work of the organization.

Writing in May 1996, President Robert L. Fanter described the reorganized "New DRI," offering every member the opportunity to help to build a foundation by electing leaders, and by working on DRI projects. "It's this infrastructure building that will continue to keep DRI alive and moving forward, so that we continue to carry a reputation of excellence among lawyers, clients, and the judiciary."



Robert L. Fanter

Annual Meetings: A New Excitement

UNLIKE MANY ASSOCIATIONS OF LAWYERS, for many years DRI did not have an annual general meeting open to all members. The first DRI Annual Meeting was held in Chicago in October 1996. Planning and organizing it was a challenge for DRI, simply because such an event had not been held before. Still, the staff and volunteers did have some experience with large gatherings at DRI seminars, so they could apply their expertise to plan and produce a major event. President Patrick E. Maloney, a Chicago lawyer, was especially active in planning and presenting the Meeting. The Meeting was heavily promoted among the DRI membership, including brochure mailings and information in *For The Defense*.



Patrick E. Maloney

The theme of the four-day 1996 Annual Meeting was “First for the Future.” It featured speeches by high profile personalities such as consumer advocate Ralph Nader, Senator (and federal judge) George Mitchell, O.J. Simpson prosecutor Christopher Darden, Nina Totenberg of National Public Radio, *Time* magazine correspondent High Sidey, and TV personality (and lawyer) Bill Kurtis. A mock trial of a sexual harassment lawsuit, starring real-life plaintiffs’ and defense attorneys, attracted a large crowd. Panel discussions focused on products liability defense strategies, the economics of defense practice, and cameras in the courtroom. A large portion of the programming was aimed at state and local defense organization volunteers and staff.

DRI
First for the Future

The Annual Meeting presented attendees with a full curriculum of continuing legal education courses, meetings of DRI committees, opportunities for networking, election of future leaders of DRI, and several enjoyable social gatherings.

More than 1,000 DRI members, plus their guests, attended the Chicago meeting. As described by DRI President Pat Maloney:

The Annual Meeting sends a message that the defense lawyers in this country are united, cooperating, and a meaningful force. It was truly the defense bar at its very best—high-level energy, sharing of information, participation by many people, superior programming, and great socialization.

The 1996 gathering set the pattern for all future DRI Annual Meetings. They have been held each October, and still feature appearances by popular personalities in the law and related fields, solid continuing legal education, panel discussion of topical issues, committee business, DRI elections, and vigorous social participation.

A New Executive Director and a New Home in the Loop

DURING THE 1980S AND 1990S, the size of the professional and support staff of DRI in Chicago grew slowly. By 1995, the full-time staff numbered twenty-six. Housed at the American Bar Center on Lakeshore Drive, its function was to carry out projects as directed by the Officers and the Board of Directors. The projects included the Defense Practice Seminars, *For The Defense* and other publications,

analyses of pending legislation, coordination with state and local defense organizations, and member services such as the Expert Witness Database.

The DRI staff was led by Louis Potter for a total of 16 years, from his appointment as DRI's first Executive Director in 1981 until his sudden and untimely death in October 1997 at age 57, as a result of a head injury. A search for his successor was immediately undertaken by the Officers and a few Directors and past Presidents. A national search firm was retained, resumes were reviewed, and several well-qualified candidates were identified and interviewed. Donald Hirsch was appointed Interim Executive Director during the search period; he led the staff for six months, until John R. Kouris was appointed by the Board of Directors to be the new Executive Director in April 1998.

John had been a practicing attorney in Indiana for several years out of law school and served as Labor Counsel to an interstate transportation company for five years. He was the Chief Operating Officer of the National Institute of Trial Advocacy (NITA), at the Notre Dame Law School for nine years before accepting the DRI appointment. He continues in the position of DRI Executive Director to this day (2005).

Through the guidance of then-President Robert E. Scott, Jr., Kouris quickly became well acquainted with the Officers and Directors, was able to respond positively to their plans and ideas for worthwhile projects, and generally took measures to prepare DRI for the 21st century.

John Kouris brought a new vitality and imagination to DRI staff operations. He broadened and opened the contact amongst staff members, so that each employee had a clearer image of the activities of the entire organization. Recognizing the need for expansion of member services, he added a small number of support staff for this purpose. He also created the position of Deputy Executive Director, to assist him in developing new projects and monitoring staff performance. Tyler M. Howes is the incumbent Deputy Executive Director. Other key staff positions include a Controller, a slot now (2005) held by Richard Wallock; he is responsible for DRI's business and financial matters. Debbie Labinger is in charge of marketing DRI's many products as they are completed by the staff and volunteers. The Director of Administrative Services, Nancy Parz, works closely with John Kouris and Tyler Howes to ensure the smooth operation of all DRI activities.

After fifteen years at the American Bar Center, it was clear that DRI needed a new staff headquarters. The space at the Bar Center was not sufficient for current and projected growth needs, nor was additional space available within the building, nor was the office adequately "wired" for modern electronic communications. Moreover, the landlord (Northwestern University) wished to use the space for one of its own departments. So, two months before the end of the fifteen-year lease, in April 1999, DRI moved to its current headquarters, in a modern office building at the corner of Michigan Avenue and Randolph Street, in Chicago's downtown Loop area. DRI occupies the entire third floor of this building, with room for



John R. Kouris



Robert E. Scott, Jr.



One of Chicago's signature skyscrapers, the diamond-top Smurfit-Stone Building has been home to DRI headquarters since 1999.

future expansion. The office has state-of-the-art technical capability; long-time employee Glenda Weaver, Manager of Information Services, ensures that the computers, on which all staff operations depend, operate properly.

Since the move in 1999, communications between the staff and volunteers and among staff members has been fully computerized. Similarly, all publication projects, including course books for Defense Practice Seminars, are processed entirely on computers. Furthermore, the final versions of most publications—with the notable exception of *For The Defense*—are in electronic format only (although hard copies are available for special orders).

Under John Kouris' energetic direction, DRI has revamped its financial and business systems, implemented a new publications strategy, improved customer service, and initiated a broad marketing effort intended to clarify DRI brand identity.

Into the New Century

Relations with the Insurance Industry

MOST INDIVIDUAL MEMBERS OF DRI are lawyers in private practice. The bulk of the typical member's practice involves a cooperative and mutually beneficial relationship with insurance companies. Under the usual arrangement, an individual or corporation insured by the insurance company has been sued by a party who allegedly has suffered some sort of harm or injury. The insured policyholder forwards the injured party's claim to its insurance carrier for disposal. After review, the carrier may then send the claim to its outside retained counsel for defense and resolution, services for which the insurer must of course pay the lawyer. The arrangement is known as the tripartite relationship among defense lawyers, insurance companies, and insured parties.

Beginning in the 1980s, some conflict arose out of the tripartite relationship between defense lawyers and the insurance companies who retained their services. The causes of the conflict were primarily economic. Whether stemming from large damages awards ("runaway verdicts"), other escalating costs of litigation, or a general downturn in the nation's economy, the insurers responded to market conditions by attempting to reduce the amounts they paid to outside lawyers.

Insurance companies began to look very closely at lawyers' bills for services, and to question the propriety of some charges. They began urging the lawyers to reduce their time and effort spent on claims. A particularly unpopular practice with lawyers was to send lawyers' fee statements to outside auditors, who often made reductions before returning the statements to the insurer for payment. The pressure came at the very time that market forces operating on lawyers and law firms created a need for greater revenues.

In the late 1980s, claims departments began to set guidelines and standards for their outside lawyers' work on claims in litigation. Favorite targets included time spent on legal research and in depositions as claims managers began to determine just how much of the lawyer's time would be compensable. Another cost-saving approach was the insurance companies' increasing reliance on inside staff counsel to handle insureds' claims.

The overall result of litigation guidelines and increased fee audits was reduced income for the insurance defense lawyers—especially those lawyers in small firms—and tension between the traditional allies. Lawyers viewed the insurers' moves to cut costs as infringement on their right and duty—recognized by virtually all professional codes of ethics and professional responsibility—to rely on their own independent judgment in representing the interests of their clients—the insured.

DRI recognized the growing problems, and took steps to alleviate them. In 1990, it conducted a survey in which defense trial counsel and insurance company personnel were invited to share their views about their working relationship. 800

individuals were interviewed; their responses expressed concern with the tension in the relationship. Many expressed regret for this deteriorating situation and suggested ways for remedying it.

As a result of the survey, DRI created a task force as a forum for representatives of the insurance industry and the defense bar to engage in a candid exchange of expectations and information about the operations of claims departments and law firms. The purpose of the task force was to encourage dialogue, and to lead to mutual respect and an understanding of each other's position. The task force matured into the Insurance Roundtable, a formal gathering of twelve to fifteen industry executives and defense bar leaders. The Roundtable, organized and conducted by DRI, continues to meet at least once per year, to review the status of the tripartite relationship and other issues.



Lloyd H.
Milliken, Jr.



Shaun McParland
Baldwin



Thomas F. Segalla



Michael F. Aylward

In 1998, DRI undertook a major project whose goal was to clarify and set forth the duties and responsibilities of parties to the tripartite relationship. A **Special Committee** was appointed by DRI President Robert E. Scott, Jr., and continued by his successor, Lloyd H. Milliken, Jr., to study and discuss the most appropriate approach. Leaders of the **Insurance Law Committee**, Shaun McParland Baldwin, Thomas F. Segalla, and Michael F. Aylward, worked diligently on the project for nearly two years. They thoroughly investigated the case handling situation, interviewed insurance company representatives, and examined the existing guidelines being used by claims departments. They determined that some of those guidelines significantly restricted the lawyer's exercise of independent professional judgment and facilitated the denial of payment for legal work necessary to the proper defense of the client. On the other hand, they also recognized that insurers have a rightful role in the management of litigation involving policyholders.

The Special Committee considered input and commentary from a variety of sources while drafting its own model case handling guidelines—one for law firms, and one for insurance companies. These two sets of recommended guidelines were examined closely by the DRI Board of Directors at several meetings; the debate was lengthy and emotional. Finally, at its February 2000 meeting, the Board approved both sets, by a vote of 26–7. They were published in the April 2000 issue of *For The Defense*, and continue to be accessible on DRI's website.

The Recommended Case Handling Guidelines were offered to defense firms and insurers as a model they could follow in promulgating their own standards and procedures. While several insurers adopted the recommended guidelines, it is not clear just how influential they may have been. At the very least, their dissemination helped to warm the relationship between the insurance industry and the defense bar. At an Insurance Roundtable in May 2000, attended by representatives of at least 20 major insurers, praise of the guidelines and of DRI's initiative in promulgating them was universal.

Observations suggest that the relationship between insurers and defense counsel has improved significantly in recent times. Fee audits by outside third parties seem to occur less frequently than in the 1990s. Following the 2003 Insurance Roundtable, Executive Director John Kouris reported that “it was apparent that the parties were committed to improving their collective situation. In addition to attempting to identify issues that will affect the defense practice in the future, the group came away with a draft of a statement of purpose that stresses cooperation and mutuality of purpose.”

Committees: The Heart of DRI

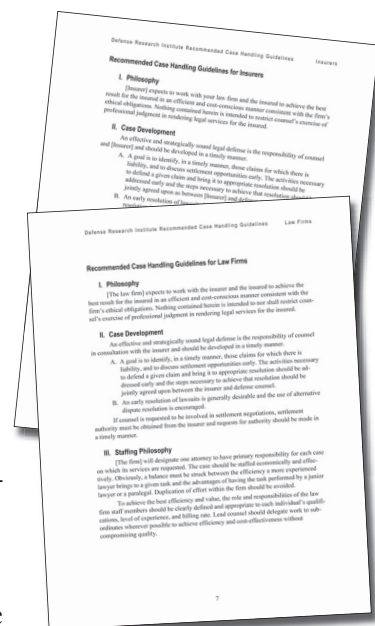
FROM ITS BEGINNINGS IN 1960, DRI has organized committees of various types, each with its own purpose and subject matter focus. Some are administrative in nature; others serve a special short-term need.

The largest, most broad based and active types of committees are the practice and substantive law committees. Because the many fields of defense practice each cover so much knowledge and information, committees are necessary as a means to gather such knowledge and interpret it for those in DRI who are not expert in a particular field but would like to be. The committees’ growth and importance within DRI has been especially noteworthy since 1995, when opportunities for committee leaders to rise in the DRI governing structure were opened. DRI now places major emphasis on the committees as a key component of the organization.

The number of DRI practice and substantive law committees has fluctuated over the years, as new committees are created to reflect areas of the law growing in importance (*e.g.*, Corporate Integrity and White Collar Crime), smaller committees are merged or disbanded (*e.g.*, Railroad Law and Admiralty Law), etc. As of 2005, twenty-five committees are active and busy. See Appendix Five for a listing.

The basis for each committee is a shared interest in a field of defense law practice. Some fields are procedural, such as Trial Tactics and Alternative Dispute Resolution; most deal with substantive law. The President of DRI appoints the Chair of each committee, to serve for one year (reappointment for a second year is common). The President also appoints members of the Board of Directors to serve as liaisons and to keep the Board informed about the work of each committee. The entire Executive Committee of DRI participates in both of these processes.

The committee structure utilizes a number of subcommittees, with each concentrating on a specific area of committee governance. Each committee is required to have at least the following subcommittees: membership, publications, education, diversity, web page, programs and expert witness. The Chair must also appoint a vice chair, a steering committee, and several liaisons to other groups within DRI.



Committees are the vehicle through which every member of DRI can participate in the work of the organization. Each member may choose to join up to four separate committees. He or she can then engage in the committee's projects, which are mostly in the fields of education, information, and publications.

Most of the committees organize Defense Practice Seminars in coordination with the DRI Law Institute. The committee leaders draft a curriculum for the seminar and help select the faculty. This role is based on their intimate knowledge of the most significant developments and relationships with qualified faculty. Some committees such as Insurance Law conduct multiple seminars each year; smaller committees, such as Appellate Advocacy, may hold one seminar every eighteen months. In addition, many of the committees present educational programs at the DRI Annual Meeting.

Most committees produce several newsletters each year. Each newsletter's content focuses on recent legal developments of significance. Committee members are invited to write, edit, or otherwise participate in the production of the newsletter. The finished product is distributed to all committee members via e-mail; in mid-2005 DRI also began posting newsletters to the committees' portals on the DRI website.

In February 2000, DRI's magazine *For The Defense* launched "Committee Perspectives." Each month, some thirty to forty pages are set aside for one committee's best writers; they produce between six and eight original articles on timely topics, and the committee's chair also writes a column describing its activities. (The label "Committee Perspectives" was dropped in 2004, but the reserving of a major portion of each issue for the writings of one committee continues.) This concentration does not limit a committee's exposure in the pages of *FTD*; it can write and publish articles in any part of the magazine, and in any monthly issue.

The response from DRI members to the opportunity to participate in the activities of practice and substantive law committees has been strongly favorable. Current committee membership numbers range from a low of 135 in Aerospace Law to nearly 3,000 in Product Liability.

Each year, DRI hosts a gathering of committee chairs and vice chairs in Chicago. For some persons new to committee leadership, the meeting serves as a training session. Guidance for more effective governance of the committee, as well as ideas for new and innovative committee projects, are shared at the meeting. DRI Officers and staff members also participate. At the staff level, committee membership and activities have been directed by Katrina Holland, Director of Committees and Member Services, for several years.

The Success of DRI Seminars

DEFENSE PRACTICE SEMINARS ARE HELD in major cities throughout the United States. Since 1994, the annual number of seminars has remained at the twenty to twenty-two level. Attendance figures since the 1980s have consistently been impressive, especially in comparison with other, more widely known continuing legal education programs (*e.g.*, the American Bar Association, the Practising Law Institute, and Mealey's). Virtually every DRI seminar draws at least 170 attendees; most have more than 200. Areas of practice that are especially popular, such as asbestos litigation, drug and medical devices, and products liability, now regularly attract more than 1,000 attendees. The May 2005 Drug and Medical Device seminar set an individual DRI record of 1,250 attendees. Innovative topics, such as food liability and mold litigation, are occasionally presented.

Beyond numbers, the seminar program has over the years expanded its subject matter interest to offer education in new practice areas such as civil rights, business litigation, toxic torts, and hazardous materials litigation. There is little question that the DRI Defense Practice Seminars program has become the primary source of CLE for the defense bar, corporate counsel, and insurance executives.

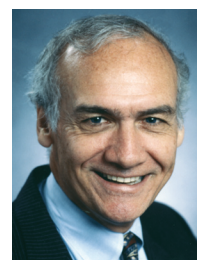
Seminars are presented via speeches, breakout sessions and written materials. In addition, seminars give attendees one-on-one access to the leading experts in specialized areas of the law. They also provide opportunities to meet informally with speakers and to “network” with other defense lawyers to exchange information and ideas. Panel counsel meetings are often held in conjunction with seminars, and there are numerous opportunities for contact between in-house counsel and outside defense lawyers.

The DRI seminar program has since its inception been run by a committee of members with a deep personal interest in professional education and a proven track record of service and dedication to DRI. This twelve-person committee, known formally as the “Law Institute” since 1990, makes all decisions regarding subject matter of each seminar, location, and other fundamental matters. Committee members also preside over each seminar. Among the many DRI leaders who have served on the Law Institute for extended periods of time are Albert H. Parnell, James B. Hiers, Jr., Gary T. Walker, E. Wayne Taff, Chrys A. Martin, and Paul B. Butler, Jr. Al Parnell in particular is credited with building the seminar program from its low state in the 1980s to its current level of success; he has served on the Law Institute since 1983.

The Law Institute coordinates its planning with DRI's practice and substantive law committees. For instance, if the subject matter of a future seminar is insurance coverage, the Law Institute will work closely with the DRI Insurance Law Committee in drafting the curriculum of the seminar and in selecting the most quali-



Albert H. Parnell



Gary T. Walker



E. Wayne Taff



Chrys A. Martin



Paul B. Butler, Jr.

fied and knowledgeable faculty. In this manner, the Law Institute is able to tailor each seminar to the true needs and desires of attendees.

Staff support is crucial to the success of the seminar program especially in planning, organizing, and administering each seminar on site. The first full-time staff Director of Education was Marilyn Steinke, who served from 1985 to 1993. She was followed by Susan Lorant and in 1995 by Jennifer Cout. In 2004, DRI implemented a sophisticated system of demographic analysis to aid in the selection of cities, venues, and time of year for each seminar.

In 2005, internal structural changes were made in order to address the challenges presented by the seminar program's continued growth. Tonya Almond was promoted to Director of Meeting and Customer Services; in addition to selecting hotel venues and negotiating contracts, her department was also charged with management of the ever-popular Product Liability Conference. The overall supervision of the Education Department was placed under the authority of Nancy Parz, DRI's Director of Administrative Services.

Publications in the Modern Era

IN THE NEW CENTURY, *For The Defense* is still the only monthly publication for the defense lawyer. It continues its tradition of broad, pragmatic coverage of timely defense-related issues with a lively mix of substantive law developments, discovery, trial techniques, and related topics. *FTD* covers activities of DRI such as the Annual Meeting and regional meetings of state and local defense organizations; it also profiles defense bar leaders and reports on significant honors received by members. The "On The Record" column, written each month by one of DRI's leaders, usually covers some development within DRI or the writer's opinion about an issue of great importance to the defense bar. New members and their Advocates (the recruiting member) continue to be listed in the back pages of the magazine each month.

For The Defense is produced at DRI headquarters in Chicago. The Editor for nearly twenty years, Davidson Ream, retired in 2004; the position is now filled by Joseph "Jay" Ludlam. The full-color visual appeal of the magazine, its format, and its graphics, are the work product of the long-time Production Manager, Julia Bergerud. Executive Director John Kouris called for a more modern appearance to the magazine, and it was Ms. Bergerud who completed the redesign of the magazine in 1999, a process that added greatly to its appeal to the reader. The page count of *FTD* has increased substantially since its expansion to forty pages in 1996. Now, seventy-two to eighty page issues are not uncommon.

Until 2000 *For The Defense* did not contain any "outside" advertising. Promotions were limited to announcements of the availability of DRI products and services, such as upcoming seminars, new publications, and the Expert Witness



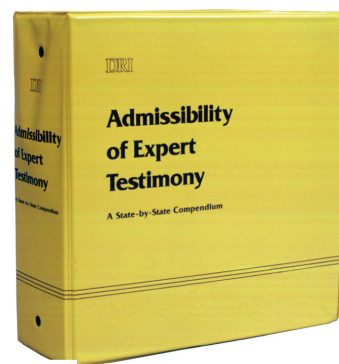
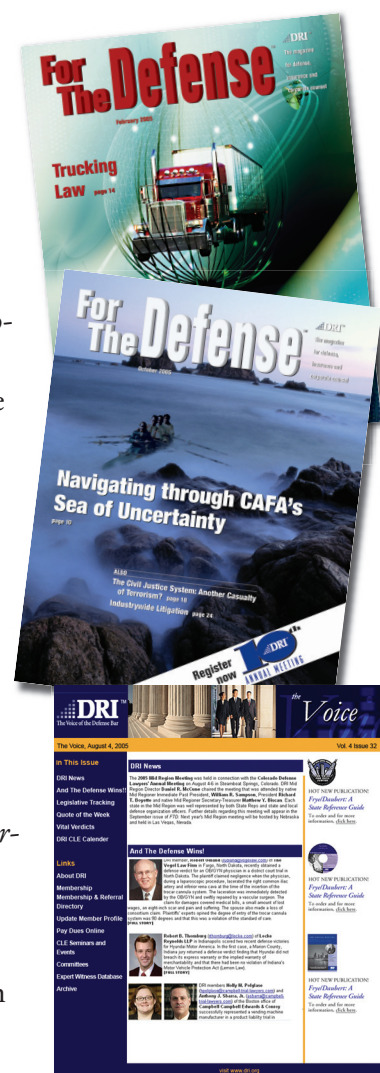
Database. In March 2000, following the Board of Directors' adoption of an advertising policy that authorized staff to solicit commercial advertisers, *FTD* began accepting limited, paid advertising from a variety of commercial providers of goods and services to the legal profession.

The circulation of *For The Defense* is now (2005) 32,000 copies per month. Most of this total is accounted for by DRI individual members. The magazine is also received by non-member subscribers such as libraries, insurance companies, and other corporations. Approximately 8,000 copies are distributed each month to every federal and state judge, at both the trial and appellate levels including federal magistrates and the Justices of the United States Supreme Court. In the summer of 2005, the magazine's distribution was extended to all state attorneys general.

In January 2002, DRI launched *The Voice*, a weekly electronic newsletter that reports on the organization's activities, legislation, successful defense verdicts. It is delivered via e-mail to all DRI members.

DRI continues to produce and sell major publications as part of its Defense Library Series, directed and coordinated by DRI Editor-in-Chief Donald Hirsch. A state-by-state compendium, *Products Liability Defenses*, was first published in 1992, and then updated in 2001 and 2004. A similar compendium of developments arising from the landmark *Daubert v. Merrell Dow Pharmaceuticals* decision, entitled *Admissibility of Expert Testimony*, was first published in 1996. This work was replaced in 2002 by a new publication, *The Daubert Compendium*, which was updated in 2004; its coverage was limited to federal court decisions. A state-by-state survey of rules on handling expert evidence in state courts, with analysis of the impact of the *Daubert* and *Frye v. United States* decisions, was published in 2005. Other major works in the Defense Library Series in recent years include:

- Practical Courtroom Strategies and Techniques
- Trial Practice Handbook for a Successful Defense
- A Defense Lawyer's Guide to Appellate Practice
- Beyond *State Farm v. Campbell*: Emerging Trends in Punitive Damages Law
- Insurance Bad Faith: A Compendium of State Law
- The Future of Terrorism Risk Insurance
- HIPAA Best Practices for Defense Lawyers
- The ERISA Litigation Primer
- Employment Law E-Desk Reference
- Young Lawyers Form Book



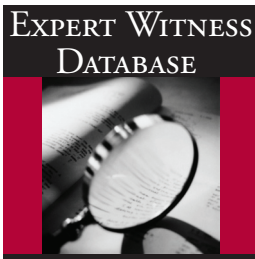
The Attorney Client Privilege
Employment Law Liability and Coverage
Technology and Your Practice
Winning the Defense Verdict

All recent titles in the Defense Library Series are published in electronic format, although traditional hard copy versions are also available to purchasers.

DRI practice and substantive law committees have contributed significantly to the Defense Library Series. A publications oversight committee made up of DRI volunteer leaders has existed in one form or another since 1960, but its degree of actual involvement has fluctuated from year to year.

Member Services in the 21st Century

A SOLID MEMBERSHIP BASE, CONSTANTLY enhanced by new recruits, is essential to the success of any member organization. DRI has diligently reached out, with a variety of inducements, to defense lawyers and others through most of its existence, as detailed in earlier sections of this book. To build membership, however, valuable services must be offered in exchange for annual dues. In recent years, DRI has greatly expanded these services.



DRI members are offered a variety of services and benefits. Perhaps the most popular is access to the Expert Witness Database, which contains data on more than 65,000 persons (and the number grows every day) who have submitted information about themselves. The staff coordinators of the Database process about fifty requests per week. For a modest charge, they send resumes, transcripts of depositions and trial testimony, and other information.



Access to the DRI website is an important benefit of membership. The website is a catalog of DRI activities, projects, and information. First built in the late 1990s, with the expert assistance of DRI Board member Rebecca Levy Sachs, the website is improved from time to time to make it more valuable to members. In the summer of 2005, DRI launched an entirely new website. The primary objectives in restructuring the website were to enhance navigation, intuitively organize content, and provide useful services and tools. A number of new services were introduced in the 2005 restructure, including DRI Online, which gives members unlimited search-and-view access to all DRI seminar materials and *For The Defense* articles. Every committee and leadership group at DRI Online now has a dedicated eCommunity on the website, which contains useful collaboration tools, including a chat forum, document center, and calendar.

The DRI website provides information about the Defense Library Series and other publications, which are available to members at discounted prices. The site is also the path to *The Voice*, DRI's electronic weekly newsletter, which is e-mailed to

all members. Following a more traditional distribution route is the monthly copy of DRI's flagship magazine, *For The Defense*.

Another benefit of membership is information about upcoming Defense Practice Seminars. Seminars are usually two to three days in length. Virtually all of them satisfy state continuing legal education requirements. Members receive discounts on the seminar tuition fee; for example, in 2005, a two-and-a-half day seminar typically costs \$775 for a non-member, but \$645 for a member. Upon registration, a compact disc containing all the written course material is sent. Formerly, DRI distributed bulky hard copy course books at the seminar site. The switch to CDs in 2002 has resulted in substantial savings, of the costs of paper, printing, and shipping. See pages 59–60 for more detail about DRI seminars.

Other informational activities available to members include DRI teleconferences, an easy and cost-effective educational medium. They provide the luxury of learning without leaving one's office. Participants can hear outstanding speakers, and then interact with them during a Q & A session.

A very practical benefit of DRI membership for many years has been lawyers' professional liability insurance issued by St. Paul Travelers. The insurer has tailored a policy specially suited to defense lawyers' needs, at a competitive price, and featuring a high level of claims handling service.

A special type of member service is DRI's role in responding to massive natural and man-made disasters that affect the American people. Arguably, the two events that have had the broadest and deepest destructive impact on the United States in the lifetime of most DRI members have been the terrorist bombings of September 11, 2001 and Hurricane Katrina in August/September 2005. Immediately after each of these disasters, DRI stepped forward with a plan and coordinated effort to facilitate communications for DRI members who may have been in the devastated areas.

The 9/11 disaster directly affected a few defense law firms in the World Trade Center, and at least one DRI member lost his life. Katrina destroyed wide portions of New Orleans and other Gulf Coast cities and towns, including the offices and residences of many DRI members. DRI established a "resource forum" following Katrina—toll-free telephone numbers and emergency e-mail addresses to reach out to DRI members in the Gulf Coast region needing or offering assistance. It became a clearinghouse for information on temporary office space, temporary lodging, and changes in appointments with clients, courts, and opposing counsel. DRI coordinated its efforts with those of the SLDOs in Texas, Louisiana, Mississippi, and Alabama.

The annual fee to be an individual member of DRI in 2005 is \$195, an amount that has not changed since 2000 and is substantially less than most bar association dues. Young lawyers (in practice five or fewer years) pay \$125, and government lawyers pay \$160.

State and Local Defense Bar Concerns

LEADERS OF THE DEFENSE BAR have always recognized that no nationwide association of defense lawyers can prosper without cooperation and participation by “grass roots” groups. DRI was an early supporter of state and local defense organizations, and strived to coordinate its activities with the SLDOs. See page 11.

Over the years since 1960, DRI has helped to establish several new SLDOs, by working with lawyers in states that previously had not had their own association. For instance, Robert C. Maynard, DRI President in 1983, was instrumental in the founding of state groups in Ohio and Kentucky. Edward W. Mullins, Jr. and James W. Morris III assisted in setting up at least four state groups in the Mid-Atlantic region. The formation of new SLDOs was a particular interest of Rudolph A. Janata, DRI President in 1974; an award later was established in his name to recognize SLDO leadership. The result of these efforts by national leaders has been a network of SLDOs (currently sixty-five in number), coordinated by DRI headquarters in Chicago. Joint activities have included legislative lobbying, efforts to ensure a fair and balanced judiciary, and the National Conference of Defense Bar Leaders. See pages 34–35.

A number of SLDOs lobbied for a national organization that would recognize and support the particular needs of defense lawyers in each state, as expressed by the elected leaders in the state. The DRI leaders responded favorably.

In setting up the new governing structure following the execution of the memorandum of understanding in 1992, the Long Range Planning Committee of DRI gave primary consideration to the expressed desires for more state-based representation. Of most significance, it designated twelve of the thirty-three non-Officer seats on the Board for “Directors Elected Regionally.” This provision ensures that every DRI member has a voice in selecting a representative who will be aware of the needs of defense lawyers in his or her region of the nation. See pages 49.

A related development in the focus on state-based concerns was the creation of the DRI State Representative position. The State Rep serves as the liaison between the DRI Board of Directors and the SLDOs in the Rep’s state. Much of their responsibility, as specified in the DRI By-Laws, is for membership recruitment and retention, but they also have a role in keeping the Board informed of relevant legal developments in their state and expressing the concerns of their defense lawyers. The State Representatives meet as a group once a year in Chicago and again at the Annual Meeting.

Each of the twelve regions into which DRI divides the nation (and Canada) holds an annual regional meeting. Attending each meeting are leaders (elected officials and executive directors) of the region’s SLDOs, the State Representatives, the member of the DRI Board of Directors who represents the region, a DRI staff member, and perhaps one or two of DRI’s Officers. These meetings are an opportunity to learn about trends in defense practice in the region, how each SLDO can operate more efficiently, developments at DRI that could concern the region, and

how DRI can provide assistance for state-based activities. Reports from these meetings are published in *For The Defense*.

In the mid-1990s, DRI began publishing a newsletter entitled *Across State Lines*, which chronicled activities of each SLDO. The current version of this publication is called *The Alliance*. It continues to serve as an important source of information.

Since the restructuring of DRI in the mid-1990s, the flow of information between DRI and the state and local defense organizations, and among the SLDOs, has been impressive. DRI has served as a facilitator, clearinghouse, and coordinator of SLDO activities. Its leaders have spoken out in support of the defense view on issues of importance. Moreover, DRI has responded to the concerns of state-based defense interests by providing major leadership roles in the organization for them.

The Quest for Diversity

In 1960, THE LEGAL PROFESSION in the United States was made up almost entirely of white males. Few women, and even fewer persons of color, attended law school in the middle of the twentieth century. The membership and leadership of DRI reflected this national demographic. Not only were all of them white males, but few were young men eagerly generating fresh ideas they wished to pursue in dealing with the organized and aggressive plaintiffs' bar.

Beginning in the 1970s, the demographics of the legal profession began to change as increasing numbers of women and racial minorities enrolled in law school, graduated and entered practice. DRI membership did not immediately follow this trend, but by the 1980s many young lawyers including women and minorities were practicing in defense law firms—and joining DRI. Recognizing the need to reach out to this “new generation,” DRI began to aggressively recruit these young lawyers and it organized the Young Lawyers Committee and other activities, as described above (see page 33).

DRI had nearly 2,000 women members by 1990. Many of them became very active in the practice and substantive law committees by organizing seminars, editing newsletters, writing for publication in *For The Defense*, and other activities. Roughly a third of the committee chairs are now women. Overall, their contributions are as impressive as those of their male counterparts. In 2005, twenty-four percent of the individual members are women, and twenty-three percent of leadership positions are held by women.

Of the approximately 300 individuals who have served on the DRI Board of Directors since 1960, fifteen have been women. The first was Carol M. Welch, who was elected in 1993. One, Sheryl J. Willert, has risen to the top of the DRI governing structure serving as President in 2002–2003. The opportunities for other women to become DRI leaders are open and clear.



Carol M. Welch



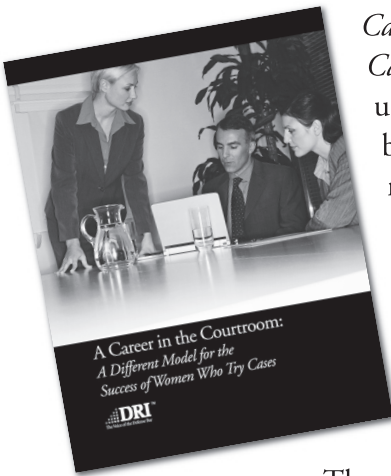
Sheryl J. Willert

In recent years, DRI has addressed the special concerns that many women lawyers feel about their place in the legal profession. Issues such as advancement within the firm, the impact of childbearing on one's career, day care arrangements, and sexual harassment have been aired in DRI seminars, publications, and especially within the Young Lawyers Committee.



William R.
Sampson

In March 2004, under the leadership of President William R. Sampson, DRI undertook an ambitious project to gauge the attitudes of female defense lawyers. It formed a ten-member task force, chaired by Shelley Hammond Provosty of New Orleans, to identify professional challenges unique to women who are defense trial lawyers and to suggest ways to meet those challenges. The task force conducted a survey in which nearly 900 affected persons, mostly women in the private practice of law, expressed their views.



The results were published in a sixty-two page narrative report, entitled *A Career in the Courtroom: A Different Model for the Success of Women Who Try Cases*. Among the survey's findings and conclusions: women are too often underrepresented in the ranks of law firm partnership, and leave their firms before either they or the firm benefits sufficiently from their efforts. The report urged more open and flexible law firm policies to accommodate the special needs of women who truly have a great deal to contribute to the success of the firm. Following its release and distribution, the *Women in the Courtroom* report was widely acclaimed in the popular press. It has become the basis for an American Inns of Court educational program as well as "best practices" principles in a number of law firms. Shelley Provosty continues to spearhead the activities of the task force.

The effort to reach out to women is part of DRI's overall quest for diversity in its membership and leadership ranks. A primary focus of this effort has been lawyers who are persons of color—African-Americans, Hispanics, Asians, and others. As with women, the numbers of racial minorities in law school, and then in practice, have climbed steadily since the 1980s. DRI has reflected this trend. Several African-Americans, most notably Sheryl Willert, have served as committee chairs and on the DRI Board of Directors. Lawyers with Hispanic and Asian roots have also held leadership roles. Their participation has brought a new vitality to DRI, making the membership more representative of the legal profession and the overall American population.



Neil A. Goldberg

DRI formed the **Minorities Issues Committee** in 2001. President Neil A. Goldberg appointed Timothy P. Schimberg as its first Chair; it has since been renamed the **Diversity Committee**, and is currently (2005) chaired by H. Patrick Morris of Chicago. Its purpose is to plan and implement new strategies and programs, including publishing and educational projects that encourage more minority lawyers to become involved with DRI activities. At the staff level, the Diversity Committee's efforts are coordinated by the Committees and Member Services Department.

In keeping with DRI's commitment to diversity, the staff at the Chicago headquarters is composed of individuals with a wide variety of ethnic, racial, and religious backgrounds. At least two-thirds of the staff is female. It is representative of the broad mixture of people who populate the Chicago area.

DRI's diversity initiatives encompass not only young lawyers, women, and people of color. They also focus on encouraging traditional insurance defense lawyers to broaden their practice interests to include such fields as white collar crime, commercial litigation, intellectual property, and civil rights litigation.

To demonstrate DRI's commitment to diversity, in 2001 the Board of Directors adopted a statement of principle that since has appeared in every DRI publication:

DRI is the international membership organization of all lawyers involved in the defense of civil litigation. As such, DRI wishes to express its strong commitment to the goal of diversity in its membership. Our member attorneys conduct business throughout the United States and around the world, and DRI values highly the perspectives and varied experiences that are found only in a diverse membership. The promotion and retention of a diverse membership is essential to the success of our organization as a whole as well as our respective professional pursuits. Diversity brings to our organization a broader and richer environment, which produces creative thinking and solutions. As such, DRI embraces and encourages diversity in all aspects of its activities. DRI is committed to creating and maintaining a culture that supports and promotes diversity in its organization.



In 2004, DRI initiated a Law Student Diversity Scholarship program, which is open to second year African American, Hispanic, Asian, and Native American students. Second year female students are also eligible regardless of race or ethnicity. Two scholarships in the amount of \$10,000 each are awarded annually to the authors of winning essays on legal topics.

As another encouragement to diversify and in recognition of progress, the Board of Directors in 2001 established two awards: the DRI Law Firm Diversity Award and the DRI SLDO Diversity Award. Each is based on the law firm's or SLDO's "commitment to diversify as evidenced by a formal diversity plan committed to achievement, sensitivity and receptivity of diversity issues, including promotion of its minority and women lawyers." See Appendix Seven for a list of recipients.

During her year as DRI President, Sheryl Willert reflected on "the growing diversity of our society and the opportunities that that change offers. It is predicted that white males will make up only thirty percent of the work force by the year 2050, if not sooner. It logically follows that the leaders of businesses around the country, both men and women, will be from a broader spectrum of racial and ethnic backgrounds... It logically follows that the types of industries to which we defense lawyers will have to provide legal services will be significantly more diverse... And if you want to do the work, you're going to have to look more like the people making the decisions." In short, defense law firms that are successful in

the future will be those that recognize the demographic changes in their clientele, and hire lawyers that reflect that diversity.

The Continuing Popularity of Annual Meetings

THE TRADITION OF OPEN ANNUAL Meetings of DRI started in October 1996 and continues today. The Meeting has become increasingly popular as a gathering place of DRI members interested in learning and hearing from top lawyers and other high profile personalities, as well as for DRI leaders and for those who aspire to leadership. Over 1,000 members, with their guests, attend each year. Unlike the seminars where the focus is on specialized educational topics, the Annual Meeting is a “big tent” affair for DRI members with varying interests, a chance for them to get together.

The attraction is, first and foremost, the opportunity to meet with DRI leaders and other members, and to plan with them for future events and projects. Business meetings of every committee and many of the sixty-five state and local defense organizations are held. A full slate of continuing education offerings and “blockbuster” speeches, mock trials, and panel discussions fill each day of the Meeting. Future leaders of DRI are elected (see page 49). Annual awards to DRI members for outstanding achievements are presented (see Appendix Seven). Exhibitors display products designed to make each lawyer’s practice more successful. Finally, a wide variety of social events are part of each Meeting’s activities.

After the initial Annual Meeting in Chicago, the location has changed every year (but the Meeting has always occurred in early October). The Baltimore Meeting in 1997 heard a lively examination of the future of the jury system by lawyers, judges, and Professor Arthur Miller. Another panel focused on discovery abuse building on DRI’s “Discovery 2000” project. Other speakers included columnist Carl Rowan, comedian Mark Russell, and Baltimore Oriole great Brooks Robinson.

A record crowd of 1,200 lawyers attended the 1998 Meeting in San Francisco. The educational programming focused on the steps lawyers should take in dealing with the news media. Professor Michael Tigar, who represented Terry Nichols in the Oklahoma City bombing case, offered advice: “The press has the power to inform and expose, but they also have the ability to get it completely wrong.” The attendees were entertained by wine tastings, Chinese dragons, and humorous columnist Dave Barry.

The 1999 Meeting in New York City featured two DRI National Forums: one on the future of diversity, and another on the impact of judicial activism. The attendees heard inspiring messages from National Public Radio correspondents Mara Liasson and Juan Williams, and longtime civil rights leader Julian Bond. They also heard a panel discuss the future of relations between defense lawyers and insurance carriers.



Another crowd of 1,200 was at the 2000 Meeting in New Orleans to hear a program on products hazards and defects. Chair Ann Brown of the Consumer Products Safety Commission was joined on the panel by products manufacturers, engineers, and defense counsel. In addition, Professors James McElhaney and James Jeans presented their popular program on successful trial advocacy.

The 2001 Annual Meeting was held in Chicago in early October, barely three weeks after the attacks of September 11. The incoming President, P.N. Harkins III, feared that attendance would be severely limited because of reluctance to travel. In fact, the Chicago meeting attracted 1,000, thanks to the special efforts of Nick Harkins and other DRI leaders to encourage attendance. The theme of the meeting was “Leadership”—leaders in the courtroom, leaders in the firm, and leaders in the profession. For the courtroom, top trial lawyers presented helpful ideas, including an electronically interactive *voir dire* session. Mass tort litigation and successful negotiation strategies were also discussed. From the law firm leaders, advice was given on rainmaking and training of young associates. The leadership in the profession program featured an examination of the “lost art” of ethical litigation by Professor Arthur Miller.

Certainly one of the highlights of the 2002 Meeting in San Francisco was Erin Brockovich, who told her story of one woman’s vision and perseverance to a standing room-only audience. DRI stalwarts Stephen Morrison and Ronald Robinson led a panel of general counsel and trial attorneys that tried to predict “the torts of tomorrow.” Other speakers looked at alternative dispute resolution, the impact of technology in the law firm, and employment issues in the corporate workplace.

High profile political leaders and pundits dominated the 2003 Annual Meeting in Washington, D.C. Former Senator Bob Dole described what it takes to be a great leader—integrity and accountability. Attorney General John Ashcroft, James Carville, Mary Matalin, and George Will drew on their long experience to inform and entertain the attendees. Federal and state appellate judges urged lawyers to take more active roles as societal leaders. One of the liveliest gatherings featured a panel that examined the make-up of the ideal “trial team.”

DRI returned to New Orleans for the 2004 Annual Meeting. Panels discussed civil justice reform issues, how to successfully litigate a high-profile media case, how to manage a firm’s bottom line, and time management strategies. A special feature of the 2004 Meeting was the presence of Todd Smith, then President of the Association of Trial Lawyers of America (ATLA), who participated in the debate on tort reform. After the educational sessions, attendees enjoyed a full range of social and recreational events in The Big Easy.



P.N. Harkins III



Planning and conducting the Annual Meeting is a huge task for several volunteer committees, beginning at least three years before the event. A permanent Annual Meeting Steering Committee of DRI leaders, headed by the President-Elect and the Annual Meeting Chair, is now responsible for planning and executing the increasingly complex gathering. In addition to the volunteers, a substantial number of DRI staff persons are heavily involved with organizing and executing the Meeting. Much of the success of recent Meetings is due in large part to the efforts of Tonya Almond, DRI's Director of Meeting and Customer Service. Her team includes Carrie Mehrhoff, Tiffany Caldwell, John Hovis and Executive Department members Nancy Parz, Mary Ogborn and Lynn Conneen.

Educating the Judiciary

A NEW VENTURE FOR DRI in the twenty-first century is the National Foundation for Judicial Excellence. Founded in 2004, and based on an idea put forth by then President-Elect Richard T. Boyette, NFJE is an independent 501(c)(3) charitable organization that provides educational programs and other support to enable judges and other court personnel to perform at their highest levels. Its ambitious mission reflects the belief that a top quality and balanced examination of current legal issues of importance, directed to an audience of judges, will provide the jurists additional knowledge and insights when those issues are aired in court or on appeal.

The Foundation is governed by a twelve-member Board of Directors. The initial Officers of the NFJE were President Lloyd H. Milliken, Jr., Chair of the Board Robert D. Monnin and Secretary-Treasurer John R. Kouris.

The inaugural project of NFJE was the Annual Judicial Symposium, held in Chicago in July 2005. Titled "Justice and Science," the symposium examined the critical matter of the admissibility of scientific and other evidence. It featured talks by legal scholars, a demonstration of an evidentiary hearing, and informal "roundtable" discussion by the 140 state appellate and supreme court justices who attended the symposium.

In addition to the annual symposium, NFJE will publish scholarly works and engage in other efforts to enhance judicial knowledge and competence. While recognizing that the primary impetus for NFJE comes from the defense bar, the Foundation is committed to presenting a balanced, non-partisan approach to examination of legal issues.

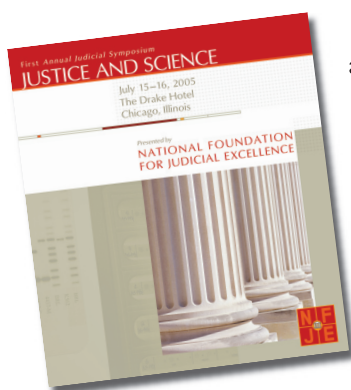
The Foundation received financial support from DRI in its first year. This included the services of a DRI staff team led by Heidi Voorhees, former DRI Senior Director; she has been succeeded by Managing Director Margot Vetter.

International Outreach

WHILE THE MEMBERSHIP OF DRI consists overwhelmingly of lawyers from the United States, the organization does have a growing international interest and presence as business operations, and even certain legal developments, have become



Richard T. Boyette



global in scope. The organization has maintained a major Canadian presence for many years, with several hundred members from north of the border. Canadians have filled Regional Vice President and Board of Directors seats. In the current DRI governing structure adopted in 1995, one of the “Directors Elected Regionally” slots is reserved for a Canadian.

Legal developments in Canada are sufficiently important to some American defense lawyers that such developments are covered at DRI seminars and in DRI publications. For instance, a column on defense practice in Canada has been a frequent feature of *For The Defense* since 1998; it is the brainchild of Teresa Dufort, a DRI member from Toronto. Originally called “Points North,” the column is now “Canadian Commentary.” Seminars have been held occasionally in Toronto and Montreal. Lawyers from Great Britain and Australia, other nations with a common law tradition, have also been active as authors and speakers at seminars.

Interest in Europe has been heightened in the past couple of decades as evidenced by two trends: the maturing of the European Union, and its efforts toward uniformity of regulatory law; and the wide and deep economic and business cooperation between corporations in Europe and the United States. Underscoring and building on this connection, DRI has sponsored three major gatherings of American and European defense lawyers—in Brussels in 1999 and 2001, and in Barcelona in 2004. DRI also held a conference on liability issues in Australia in 2004. A recent addition to *For The Defense* is the “Eye on Europe” column.

A further motivation for international cooperation has been the increasing number of foreign companies being sued in the United States. Many of these companies do not have sufficient understanding of United States law or a network of American lawyers to defend their interests. DRI saw this as an opportunity to be the source of lawyers who would be retained in such litigation. The first Brussels conference, designed during the Presidency of Robert E. Scott, Jr., with capable assistance from Law Institute members E. Wayne Taff and Harvey L. Kaplan, was designed to educate companies and insurers based in Europe and in other parts of the world on what to expect if and when they are sued in the United States. The second Brussels conference, planned and organized during the term of President Neil A. Goldberg, was especially significant. It presented two separate educational programs: one on the globalization of products liability and one on insurance/reinsurance issues to a gathering of 282 defense lawyers from seventeen nations.

Products liability is an area of the law particularly well-suited to multi-national treatment. As products are manufactured and distributed across national boundaries, the pressure for uniform international standards of safety and liability increases. The 2004 edition of DRI’s *Products Liability Defenses* compendium con-



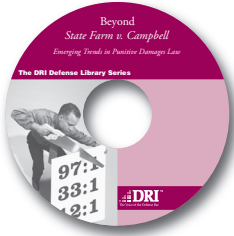
tains comprehensive treatment of the law in Canada, Europe, and ten nations in the Asia/Pacific Rim; those chapters are written by lawyers actively practicing in those nations.

Dealing with Continuing Defense Bar Issues

DEVELOPMENTS IN THE CORPORATE, INSURANCE, and legal worlds have impacts on the practice of law by defense attorneys. In fact, explaining the changes and offering advice and assistance in dealing with them is, in many members' view, the *raison d'être* of DRI. Thus, DRI offers information and education for its members, covering a broad range of issues that could affect the members' practice. The organization has also taken formal positions on several of the issues.

The DRI Board of Directors is authorized to speak out on public issues of importance to the defense bar. In recent years, the Board has adopted positions in support of increased federal funding of the judiciary, in support of Congressional extension of the Terrorism Risk Insurance Act, on the issue of third party audits of attorneys' bills, on the tripartite relationship among defense lawyers, clients, and insurance carriers, on multidisciplinary practice, and on the Asbestos Compensation Act of 2000.

The shifting of the law on punitive damages is another example of these issues. Over the past two decades, the United Supreme Court has decided several cases that examine the concept and the measurement of such damages. In its publications and seminars, DRI has analyzed the trends in punitive damages law and suggested ways to frame arguments that could minimize the threat of major punitive awards. In 2005, it published a scholarly work that analyzed the impact on punitive damages law of the landmark United States Supreme Court decision in *State Farm Insurance v. Campbell*. In addition, DRI produced an outstanding *amicus curiae* brief in the *State Farm* case.



A matter of continuing concern is the economics of defense law practice. A recent survey indicates that fifty-five percent of the members are in firms of twenty-five lawyers or less. Such firms typically do not have the resources including researchers and the latest technology to compete with large firms. To examine this matter in depth, in 2000 President Lloyd H. Milliken, Jr. organized a Small Law Firm Economics Symposium. The symposium was chaired by Richard B. Collins and featured economists, law firm consultants and practitioners. It was presented in several different locations, with the program designed as a cooperative venture between DRI and participating state and local defense organizations.

The small law firm symposium was a ringing success. It created and strengthened good will toward DRI from an important segment of the organization's membership.

The law on the admissibility of expert witness testimony has been the subject of much attention by DRI authors and speakers. Not all states have followed the

guidelines set forth in *Daubert v. Merrell Dow Pharmaceuticals* and its progeny. DRI has published major compendia of the developing law of expert witnesses.

The rise in the frequency of class action litigation is another development that concerns DRI members. Reform legislation that would place some restrictions on plaintiffs' lawyers' use of the class action vehicle was pending in Congress for several years and passed in February 2005. DRI officially supports such legislation, and has published frequent articles in *For The Defense* on the subject. A similar development that DRI monitors is the rise in multi-jurisdiction litigation.

It has long been the general belief of the defense bar that its clients can often be treated more fairly in federal court than in state courts. There are, of course, many caveats and exceptions to this belief, but it remains the prevailing sentiment. For this reason, the defense is always alert to the possibility of removing a lawsuit from state to federal court. Similarly, DRI opposes any efforts to abolish, limit, or otherwise weaken the concept of diversity jurisdiction, and has long fought against such a proposal.

DRI is concerned about proposed changes in federal procedural rules on discovery and the use of evidence. It has been in the forefront of rulemaking on the appropriate use of electronic discovery; DRI organized a task force to examine this issue. Closely related is the matter of the preservation of protective order procedure. These topics have been subjects of much writing in DRI publications.

Restrictions on the practice of law are a continuing source of concern. Some lawyers are associated with organizations in which non-lawyers, representing a multiplicity of disciplines, are able to control the professional activities of lawyers. Similar to the multidisciplinary matter are the ongoing relations between outside defense lawyers and insurance companies, which are detailed above on pages 55–71.

One means by which DRI expresses its views on these important legal issues is testifying before rules-making and other legislative bodies. DRI leaders have appeared at hearings in Congress and in the states, presenting the organization's position. See page 31. Another vehicle is the *amicus* brief, described above on page 32. The *Amicus Curiae* Committee has submitted briefs on a variety of cases pending in state and federal appellate courts.

Other law-oriented organizations have in recent years looked to DRI for input and participation in a variety of projects. The American Law Institute, in assembling its *Restatements of the Law*, receives commentary from all segments of the bar, including DRI. In particular, DRI representatives have been active participants in the drafting and review of the *Restatement (Third) of Torts: Products Liability*, *Restatement (Third) of Torts: Apportionment of Liability*, and the *Restatement of the Law Governing Lawyers*. DRI has also overseen the work of the Judicial Conference of the United States and the National Conference of Commissioners on Uniform State Laws.

Several DRI Officers have been active in the American Board of Trial Advocates' (ABOTA) Roundtable, a discussion group that meets occasionally to examine issues and problems facing the trial bar. Representatives from the ABA, ATLA and DRI, among others, participate in the Roundtable. DRI and ATLA agree on at least one point: they each give unqualified support for the continuation and strengthening of the civil jury and are prepared to fight for its preservation.

Wrapping It Up

The Volunteer Experience

THE GROWTH AND SUCCESS OF DRI since its founding in 1960 is the result of the dedication and effort of many individuals. Certainly, one of the groups that has played a key role in this development has been the organization's professional and support staff. The real builders of DRI since 1960, however, have been the hundreds of practicing defense lawyers who have given so generously of their time and effort. Like most voluntary professional associations, DRI primarily depends upon its members for its vitality, its purpose, its activities, and its existence. The staff helps, of course, and offers some direction, but the volunteer leadership sets the goals and provides the vision. Thus, it is the dedication and the willingness of the members to become involved in the organization that moves DRI ahead day by day.

The backbone of DRI is the 22,000 individual members who pay their dues, purchase and read DRI publications, attend DRI seminars, utilize the services found on the DRI website, and rely on DRI to be their voice and their partner in improving their professional life. It is the dedicated, loyal, individual member who is the present strength and who will ensure the future vitality of DRI.

Counted in the membership are those dedicated members numbering less than two thousand men and women who contribute their time and energy in some way to further the goals and mission of DRI. Most of these volunteers are busy full-time practicing lawyers who have decided that dedicating themselves to DRI is the right thing to do. They may also be members of their state bar association or the American Bar Association, but their primary interest in professional organizations centers on DRI. Whether they believe that their participation will enhance their law practice or "level the playing field," or whether they have talents and experiences they wish to share with other defense lawyers, or whether they simply enjoy the camaraderie of other DRI volunteers, it is their motivation and willingness that drives DRI.

DRI has always offered a broad variety of activities for the volunteer. The door is wide open for those who wish to be involved. The first step for most has been into the practice or substantive law committee of his or her choice. There, opportunities to contribute abound—writing for the committee's newsletter, developing its website and planning its seminar, to name a few. Leadership roles in these and other special purpose committees of DRI then follow. Eventually, those with the deepest commitment and record of accomplishment may be elected to the DRI Board of Directors.

The other primary path for the volunteer to the upper leadership of DRI is through the state and local defense organizations. Like the DRI committees, the SLDOs have a range of projects which a member can pursue. Top SLDO leaders can become State Representatives and perhaps DRI Regional Directors.

vitality
LOYALTY
dedication
motivation

Election to the Board of Directors does not, however, signal the end of volunteer activity. Each year, the incoming President assigns members to specific projects that DRI is developing. They are expected to monitor the progress of these projects, and keep the full Board informed.

The term “volunteer” means, of course, that members receive no compensation for their services on behalf of DRI. Top leaders do receive some attractive perks. Board meetings have been held in interesting places such as Rome, Edinburgh, and Switzerland, and spouses have been encouraged to attend and enjoy the social events.

Over the years, DRI has produced dozens of outstanding leaders, many of whom have progressed “through the chairs” to the Presidency and whose accomplishments are covered in this work. There are, however, a very few individuals who have not yet served as President but whose dedication, hard work, and contributions to the good of DRI deserve special recognition. Kelly A. Freeman stands out as the initial chair of two separate committees, Young Lawyers and Appellate Advocacy. Richard H. Krochock served DRI in a number of capacities, and probably would have ascended to the Presidency if not for his untimely death in 1999. Similarly, G. Duffield Smith, Jr. was one of the most tireless, effective workers on behalf of DRI; his tragic death just as he was to become President deprived DRI of a truly great leader. Not only has Albert H. Parnell served on the Law Institute longer than anyone else, he is the true “father” of the Defense Practice Seminars program. Finally, E. Wayne Taff has virtually dedicated his life to DRI, as a committee chair, Board member, Secretary-Treasurer, Law Institute chair, program planner, and all-round supporter and “doer.”

For most, if not all, of those who have been President of DRI, their time as leaders of the organization has been their most significant experience as a volunteer member of a professional association. They have commented on the exceptionally high caliber of lawyers that serve on the Board of Directors, and that association with such men and women has made the performance of their responsibilities so smooth and trouble free. The experience has also yielded some deep personal benefits. Leaders talk about “the warm circle of lifelong DRI friends” they have enjoyed. As Robert L. Fanter recalls of his time on the DRI Board:

We learned from the bright ideas of others. We saw the ability of people at Board meetings to cut to the core of proposals—proposals to follow a good plan or a bad plan—for executing a strategy to reach a goal. We also gave the status of being a defense lawyer new meaning because of the mosaic of personalities we all met. I view my association with DRI as my opportunity for a post-graduate education. I know that DRI gave more to me and my family than I was able to give to it in one year as President. And through all of this—it was fun!

Final Words

THESE WORDS ARE NOT “FINAL,” of course, because DRI is a continually evolving venture. The past is mere prologue to the future. In the year 2005, planning for new projects that will serve the needs of and benefit the defense lawyer is proceeding apace. Seminars and publications that will examine as yet unknown developments in the law and practice will be organized and offered to defense lawyers.

From its humble beginnings in 1960 as an off-shoot of an established defense lawyer association, and especially since its “independence” in 1995, DRI’s entire purpose has been to serve the informational needs of defense lawyers, primarily through its defense practice seminars and publications. It continues to provide valuable services to its 22,000 individual and corporate members in the twenty-first century. With top flight volunteer leaders and a knowledgeable hard-working staff of forty-three full-time employees, both groups truly committed to the well-being and growth of the organization, the future of DRI is indeed bright.

Appendices

Appendix One: Officers

Dozens of men—and two women—have served as Officers of DRI since 1960. In the early years, Officers served under a variety of titles that are no longer in the DRI Officer structure. These titles included Chairman of the Board, Honorary Chairman, Vice President–Administration, Vice President–Information, Vice President–Public Relations, Vice President–Corporate, and Vice President–Insurance. By 1995, all of the above titles had been eliminated, to be replaced by the current (2005) six Officer positions: Immediate Past President, President, President-Elect, First Vice President, Second Vice President, and Secretary-Treasurer.

With the exception of Secretary-Treasurer, all Officers serve for one year in each of the five positions. Each year, a new Second Vice President is elected; that person then serves as an Officer for five years, automatically progressing “up the ladder” each year. The Secretary-Treasurer does not progress—unless he or she is subsequently elected Second Vice President.

In the first listing below, each person who has held (or will hold) the office of DRI President since 1960 is named, with the year(s) of his or her Presidency. Those who have served as Secretary-Treasurer are then listed. Finally, each person, other than Presidents, who held one or more of the now-eliminated Officer positions is listed, with his term of service.

Note that, until the year 2000, the annual transition from one President (and all other Officers) to the next occurred in February. Beginning in 2000, the transition has occurred at the DRI Annual Meeting in October. The shift from February to October created a unique situation in 1998, 1999, and 2000 in which two consecutive Presidents—Robert E. Scott, Jr. and Lloyd H. Milliken, Jr.—each were required to serve for 16 months.

The listed Presidential year actually begins in October of the previous year. Thus, for example, P.N. Harkins III became President in October 2001, and served until October 2002.

President

Stanley C. Morris	Charleston, West Virginia	1960
Lewis C. Ryan	Syracuse, New York	1961
Josh H. Groce	San Antonio, Texas	1961–1964
William E. Knepper	Columbus, Ohio	1965
Merritt Lane, Jr.	Newark, New Jersey	1966
John M. Moelmann	Chicago, Illinois	1966–1968
Thomas A. Ford	Albany, New York	1969–1970

President

Willis Smith, Jr.	Raleigh, North Carolina	1971
Reid A. Curtis	Merrick, New York	1972
Edward F. Seitzinger	Des Moines, Iowa	1973
Rudolph A. Janata	Columbus, Ohio	1974
Paul W. Brock	Mobile, Alabama	1975
William H. Wallace	Cleveland, Ohio	1976
Daniel J. Ryan	Philadelphia, Pennsylvania	1977
Thomas J. Weithers, Jr.	Chicago, Illinois	1978
Burton J. Johnson	Oklahoma City, Oklahoma	1979
John M. Dinse	Burlington, Vermont	1980
Fred H. Sievert, Jr.	Lake Charles, Louisiana	1981
Joseph A. Sherman	Kansas City, Missouri	1982
Robert C. Maynard	Cleveland, Ohio	1983
William T. Birmingham	Phoenix, Arizona	1984
Edward W. Mullins, Jr.	Columbia, South Carolina	1985
Ernest B. Lageson	San Francisco, California	1986
Donald F. Pierce	Mobile, Alabama	1987
James W. Morris III	Richmond, Virginia	1988
G. Duffield Smith, Jr.	Dallas, Texas	1989
Thomas M. Crisham	Chicago, Illinois	1989
Archie S. Robinson	San Jose, California	1990
Robert D. Monnin	Cleveland, Ohio	1991
Stephen J. Paris	Boston, Massachusetts	1992
Claude H. Smart, Jr.	Stockton, California	1993
James S. Oliphant	Columbus, Ohio	1994
Stephen G. Morrison	Columbia, South Carolina	1995
Patrick E. Maloney	Chicago, Illinois	1996
Robert L. Fanter	Des Moines, Iowa	1997
Robert E. Scott, Jr.	Baltimore, Maryland	1998–1999
Lloyd H. Milliken, Jr.	Indianapolis, Indiana	1999–2000
Neil A. Goldberg	Buffalo, New York	2001
P.N. Harkins III	Jackson, Mississippi	2002
Sheryl J. Willert	Seattle, Washington	2003
William R. Sampson	Overland Park, Kansas	2004
Richard T. Boyette	Raleigh, North Carolina	2005

President

David E. Dukes	Columbia, South Carolina	2006
Patrick A. Long	Santa Ana, California	2007
John H. Martin	Dallas, Texas	2008

Secretary-Treasurer

George McD. Schlotthauer	Madison, Wisconsin	1960–1967
Walter A. Steele	Denver, Colorado	1968–1969
Willis Smith, Jr.	Raleigh, North Carolina	1970
Gerald T. Hayes	Milwaukee, Wisconsin	1971
Ernest L. Bell III	Keene, New Hampshire	1972–1973
Fred W. Jung, Jr.	Newark, New Jersey	1974–1976
Phillip W. Knight	Miami, Florida	1977–1978
James H. Killian	San Francisco, California	1979–1981
Michael J. Pfau	Milwaukee, Wisconsin	1982–1984
Theodore D. Sawyer	Columbus, Ohio	1985
Thomas M. Crisham	Chicago, Illinois	1986–1988
G. Dewey Oxner, Jr.	Greenville, South Carolina	1989–1991
William R. Powers, Jr.	Moorestown, New Jersey	1992–1993
Douglas G. Houser	Portland, Oregon	1993–1994
James R. Kohl	Detroit, Michigan	1994–1996
Weldon S. Wood	San Jose, California	1996–1998
E. Wayne Taff	Kansas City, Missouri	1999
John R. Woodard III	Tulsa, Oklahoma	2000
Patricia J. Kerrigan	Houston, Texas	2001
Patrick A. Long	Santa Ana, California	2002–2003
John H. Martin	Dallas, Texas	2004
Matthew Y. Biscan	Denver, Colorado	2005

Other Officers

Alvin R. Christovich, Jr.	New Orleans, Louisiana	1961–1964
Kraft Eidman	Houston, Texas	1961–1964
William A. Gillen	Tampa, Florida	1961
E.D. Bronson	San Francisco, California	1962–1963
R. Harvey Chappell, Jr.	Richmond, Virginia	1964
Mark Martin	Dallas, Texas	1965–1973
Laurence E. Oliphant, Jr.	Cleveland, Ohio	1968–1973
Edward C. German	Philadelphia, Pennsylvania	1966–1967
Michael R. Gallagher	Cleveland, Ohio	1967–1968
Rex H. Moore	Phoenix, Arizona	1971
Erschine W. Wells	Jackson, Mississippi	1972–1976
Forrest A. Norman	Cleveland, Ohio	1977–1978
Samuel B. Witt III	Winston-Salem, North Carolina	1987–1988
John F. Shea, Jr.	Hartford, Connecticut	1987
Eugene J. Connor	Des Moines, Iowa	1988–1989
Paul C. Nelson	Chicago, Illinois	1989–1990
C. David Sullivan	Long Grove, Illinois	1990
David L. Grumbine	Benton Harbor, Michigan	1991–1992
Daniel R. Doucette	Milwaukee, Wisconsin	1992–1993

Appendix Two: Board of Directors

Since 1960, approximately 300 individuals have served on the DRI Board of Directors, including those who also became Officers.

The current Board of Directors consists of thirty-nine individuals. As described in the text, they include the six Officers of DRI, those twelve members elected by the outgoing Board on recommendation of the National Nominating Committee, those twelve elected to the Board by geographic region, and those nine appointed by the three traditional defense lawyer organizations.

In the year 2005, the following constituted the Board of Directors.

Richard T. Boyette (President)	Raleigh, North Carolina
David E. Dukes (President-Elect)	Columbia, South Carolina
Patrick A. Long (First Vice President)	Santa Ana, California
John H. Martin (Second Vice President)	Dallas, Texas
Matthew Y. Biscan (Secretary-Treasurer)	Denver, Colorado
William R. Sampson (Immediate Past President)	Overland Park, Kansas
Patricia O'Connell Alvarez	Laredo, Texas
Harrison Arrell	Hamilton, Ontario, Canada
Gordon R. Broom	Edwardsville, Illinois
Keri Lynn Bush	Costa Mesa, California
R. Matthew Cairns	Concord, New Hampshire
Lewis F. Collins, Jr.	Tampa, Florida
Stephen R. Crislip	Charleston, West Virginia
Robert B. Delano, Jr.	Richmond, Virginia
Daniel R. Formeller	Chicago, Illinois
Kelly A. Freeman	Warren, Michigan
Steven Gerber	Wayne, New Jersey
Cary E. Hiltgen	Oklahoma City, Oklahoma
George S. Hodges	White Plains, New York
Dan D. Kohane	Buffalo, New York
Paul M. Lavelle	New Orleans, Louisiana
Jean M. Lawler	Los Angeles, California
Gregory M. Lederer	Cedar Rapids, Iowa
F. Drake Lee, Jr.	Shreveport, Louisiana
Patrick Lysaught	Kansas City, Missouri

Wayne H. Maire
Wayne A. Marvel
Daniel R. McCune
Douglas M. McIntosh
H. Patrick Morris
Thomas A. Packer
Bruce R. Parker
Randall R. Riggs
Frederick K. Starrett
Charles A. Stewart III
John C. Trimble
Roy A. Umlauf
Marc E. Williams
Thomas A. Williams

Redding, California
Wilmington, Delaware
Denver, Colorado
Fort Lauderdale, Florida
Chicago, Illinois
San Francisco, California
Baltimore, Maryland
Indianapolis, Indiana
Overland Park, Kansas
Montgomery, Alabama
Indianapolis, Indiana
Seattle, Washington
Huntington, West Virginia
Chattanooga, Tennessee

Appendix Three: Nominating Committee

The five-person DRI National Nominating Committee is charged with the responsibility of recommending DRI members for the top leadership positions in the organization. It meets as a body at the DRI Annual Meeting in October each year. There, it considers applications for six positions: Second Vice President, Secretary-Treasurer, and four “nationally elected” members of the Board of Directors. The committee looks at each candidate’s record of service to DRI and his or her leadership potential. It also hears in an open gathering comments and information from DRI members regarding each candidate. After further deliberation, it selects its nominees and reports the same to the Board of Directors. The Board then conducts its election.

The duties of the National Nominating Committee are spelled out in Article VII, section 4 of the DRI By-Laws. That section also provides that the committee will consist of “the three (3) most recent Past-Presidents... and two other members whom the President shall select...” The individuals who have served on the committee since it was established in 1999 are listed below, with their year(s) of service.

James S. Oliphant	Columbus, Ohio	1999
Stephen G. Morrison	Columbia, South Carolina	1999, 2000
Patrick E. Maloney	Chicago, Illinois	1999, 2000, 2001
Patricia J. Kerrigan	Houston, Texas	1999
Weldon S. Wood	San Jose, California	1999
Robert L. Fanter	Des Moines, Iowa	2000, 2001, 2002
Christy D. Jones	Jackson, Mississippi	2000
O’Neal Walsh	Baton Rouge, Louisiana	2000
Robert E. Scott, Jr.	Baltimore, Maryland	2001, 2002, 2003, 2004
Paul L. Price	Chicago, Illinois	2001
Michelle I. Schaffer	Boston, Massachusetts	2001
Lloyd H. Milliken, Jr.	Indianapolis, Indiana	2002, 2003, 2005
Terry Christovich Gay	New Orleans, Louisiana	2002
George H. Mitchell	Phoenix, Arizona	2002
Neil A. Goldberg	Buffalo, New York	2003, 2004, 2005
Lynn M. Roberson	Atlanta, Georgia	2003
William J. Ruane	Madison, New Jersey	2003
P.N. Harkins III	Jackson, Mississippi	2004, 2005
Chrys A. Martin	Portland, Oregon	2004
Senith C. Tipton	Jackson, Mississippi	2004
H. Mills Gallivan	Greenville, South Carolina	2005
Mary Massaron Ross	Detroit, Michigan	2005

Appendix Four: Law Institute

The DRI Law Institute is the governing body for the Defense Practice Seminars program, the most widely patronized activity of DRI. The Law Institute is a body of twelve members appointed by the DRI President, each with a special personal interest in the educational needs of defense lawyers.

The members of the Law Institute in 2005, with their years of service, are listed below.

Michael F. Aylward	Boston, Massachusetts	2004–2007
Kimberly D. Baker	Seattle, Washington	2003–2006
Paul B. Butler, Jr.	Tampa, Florida	1990–2006
Karen R. Glickstein	Kansas City, Missouri	2004–2007
Neil A. Goldberg	Buffalo, New York	2002–2005
Cary E. Hiltgen	Oklahoma City, Oklahoma	2001–2007
Chrys A. Martin	Portland, Oregon	1994–2006
Nell E. Matthews	Minneapolis, Minnesota	2001–2005
Albert H. Parnell	Atlanta, Georgia	1983–2005
William F. Ray	Jackson, Mississippi	2002–2005
Thomas F. Segalla	Buffalo, New York	2001–2006
E. Wayne Taff	Kansas City, Missouri	1990–2006

Appendix Five: Committees

DRI practice and substantive law committees, the groups that produce much of the education and information DRI offers to its members, have been a central component of the organization since its founding in 1960. The number of committees has fluctuated over the years, reflecting changes in the law practice interests of DRI members.

In 2005, DRI had twenty-five active practice and substantive law committees:

Aerospace Law	International Law
Alternative Dispute Resolution	Law Practice Management
Appellate Advocacy	Lawyers' Professionalism and Ethics
Commercial Litigation	Life, Health and Disability
Construction Law	Medical Liability and Health Care Law
Corporate Integrity and White Collar Crime	Product Liability
Drug and Medical Device	Professional Liability
E-Discovery	Technology
Employment Law	Toxic Torts and Environmental Law
Fidelity and Surety	Trial Tactics
Governmental Liability	Trucking Law
Insurance Law	Workers' Compensation
	Young Lawyers

DRI also has a number of administrative or special purpose/project committees. These differ from the practice and substantive law committees in that they have a limited number of members (five to ten), and are appointed by the President. Many of them exist for only a limited period, until their purpose has been accomplished. In the year 2005, the administrative or special purpose committees were:

ABA Ethics Committee	Insurance Roundtable Committee
American Civil Bar Roundtable	Large Law Firm Committee
<i>Amicus Curiae</i> Committee	Membership Committee
Annual Meeting Steering Committee	Past Board Member
Commercial Litigator Committee	Utilization Task Force
Corporate Counsel Recruitment Committee	Public Policy Committee
Corporate Counsel Roundtable Committee	Senior Advisory Committee
Diversity Committee	SLDO Relationship Committee
Expert Witness Database Committee	Strategic Planning Committee
Finance Committee	Task Force on the Independence of the Judiciary
Governance Committee	Task Force on Women in the Courtroom

Appendix Six: DRI Staff

DRI is a membership organization. Its activities are conceived, planned, and performed by its members, most of whom are practicing defense lawyers. In carrying out its activities, DRI receives significant assistance from its full-time professional and support staff. These employees of the organization have committed a major portion of their working careers to DRI; their long-term presence provides an operational continuity that keeps DRI running smoothly.

Since its founding in 1960, DRI has had a total of approximately 200 full-time employees. Five of these have served as staff directors, the top staff position. The five, with their formal titles and years of service, are listed below.

Charles A. Lee, Jr.	Syracuse, New York	General Manager	1960–1962
James D. Ghiardi	Milwaukee, Wisconsin	Research Director	1962–1972
John J. Kircher	Milwaukee, Wisconsin	Research Director	1972–1981
Louis B. Potter	Chicago, Illinois	Executive Director	1981–1997
John R. Kouris	Chicago, Illinois	Executive Director	1998–

In 2005, the staff consists of thirty-nine employees, all working in DRI's Chicago headquarters.

John R. Kouris	Executive Director
Tyler Howes	Deputy Executive Director
Nancy Parz	Director of Administrative Services
Mary Ogborn	Office Manager
Lynn Conneen	Executive Assistant
Gabriel Ervin	Mail Room Coordinator
Michelle Walker	Mail Room Coordinator
Richard G. Wallock	Controller
Eileen Austria	Staff Accountant
Savita Puranmalka	Staff Accountant
Bernadette Sims	Accounting Assistant
Miriam Cornier	Accounting Assistant
Katrina Holland	Director of Committees and Member Services
Melissa Hard	Senior Coordinator
Renah Jones	Membership Coordinator
Katie Malinich	Committee Coordinator
Jennifer Cout	Director of Education
Anna Meyer	Senior Education Coordinator

Glenda F. Weaver	Manager of Information Services
Arshad Malik	Technical Support Specialist
Eric Seitz	Web Developer
Debbie Labinger	Director of Marketing
Laurie Mokry	Advertising Coordinator
Barbara Lowery	Marketing Coordinator
Meg Connolly	Senior Marketing and Project Planner
Brooke Signoretto	Marketing Analyst
Tonya Almond	Director of Meeting and Customer Services
Carrie Mehrhoff	Meeting Specialist
Tiffany Caldwell	Manager of Customer Service
Jane Flaherty	Customer Service Representative
Margaret Motluck	Customer Service Representative
Marie Tinsley	Customer Service Representative
John Hovis	E-Publishing Manager
Carol Skarson	Expert Witness Database Coordinator
Juli Bergerud	Production Manager
Colin Jackson	Production Assistant
Donald J. Hirsch	Editor-in-Chief
Jay Ludlam	Editor of <i>For The Defense</i>
Laura Glenzer	Graphic Designer

Appendix Seven: Awards

Each year, DRI recognizes significant accomplishments by its individual members and by state and local defense organizations. A total of ten awards are presented at the Annual Meeting. Below is a brief description of each award, a listing of past recipients, and the year of presentation. [Note that some awards are for accomplishments in the preceding year.]

The **Rudolph A. Janata Award** is presented to an outstanding state or local defense organization that has undertaken an innovative or unique program contributing to the goals and objectives of the organized defense bar.

- 1989 Ohio Association of Civil Trial Attorneys
- 1990 Washington Defense Trial Lawyers
- 1991 Oregon Association of Defense Counsel
- 1992 Philadelphia Association of Defense Counsel
- 1993 Iowa Association of Defense Counsel
- 1994 Missouri Organization of Defense Lawyers
- 1995 Florida Defense Lawyers Association
- 1996 Texas Association of Defense Counsel
- 1997 Defense Trial Counsel of Indiana
- 1998 Louisiana Association of Defense Counsel
- 1999 Virginia Association of Defense Attorneys
- 2000 Illinois Association of Defense Trial Counsel
- 2001 South Carolina Defense Trial Attorneys Association
- 2002 Colorado Defense Lawyers Association
- 2003 Defense Trial Counsel of West Virginia
- 2003 North Carolina Association of Defense Attorneys
- 2004 Minnesota Defense Lawyers Association
- 2005 Alabama Defense Lawyers Association

The **Fred H. Sievert Award** is presented to an outstanding defense bar leader, who has made significant contributions toward achieving the goals of the organized defense bar.

1989	J. Robert Sheehy	Waco, Texas
1990	Peter J. Hoffman	Philadelphia, Pennsylvania
1991	James W. Mohr, Jr.	Hartford, Wisconsin
1992	Paul L. Price	Chicago, Illinois
1993	M. Daniel Vogel	Fargo, North Dakota
1994	Mary K. Wolverton	Milwaukee, Wisconsin
1995	Daniel R. Formeller	Chicago, Illinois
1996	Eugene F. Tierney	Columbus, Ohio
1997	Robert C. Riter, Jr.	Pierre, South Dakota
1998	Joseph J. Joyce	Salt Lake City, Utah
1999	Thomas C. Riney	Amarillo, Texas
2000	John C. Trimble	Indianapolis, Indiana
2001	Thomas J. Welk	Sioux Falls, South Dakota
2002	Linda Stephens	Raleigh, North Carolina
2003	Katherine S. Kerby	Columbus, Mississippi
2004	Stephen R. Pennell	Lafayette, Indiana
2005	Sharon Soorholtz Greer	Marshalltown, Iowa

The **Outstanding State Representative Award** is presented to a DRI State Representative who has made significant contributions toward promoting DRI membership, implemented a significant program to foster the relationship between DRI and an SLDO, and enhanced the public's view of the defense lawyer.

2001	F. Drake Lee, Jr.	Shreveport, Louisiana
2002	Douglas M. McIntosh	Fort Lauderdale, Florida
2003	James E. Lozier	Lansing, Michigan
2004	William S. Davies, Jr.	Columbia, South Carolina
2005	David M. Davis	Austin, Texas

The **DRI SLDO Diversity Award** is presented to a state or local defense organization that has demonstrated a commitment to diversify by adopting a formal plan to promote its minority and women lawyers or volunteers.

- 2002 Colorado Defense Lawyers Association
- 2003 Florida Defense Lawyers Association
- 2004 Alabama Defense Lawyers Association
- 2005 North Carolina Association of Defense Attorneys

The **DRI Law Firm Diversity Award** is presented to a DRI member firm that has demonstrated a commitment to diversify by adopting a formal plan to promote its minority and women lawyers. [The first three awardees are national law firms, with offices in multiple cities.]

- 2002 Phelps Dunbar LLP
- 2003 Holland & Knight
- 2004 Thelen Reid & Priest, LLP
- 2005 Gordon & Rees, LLP

The **Davis Carr Outstanding Committee Chair Award** is presented to a DRI committee chair who has achieved his or her committee's goals, including successful seminars and high-quality publications, and has created and implemented new projects.

- | | | |
|------|--------------------|---------------------------|
| 2001 | Steven Gerber | Wayne, New Jersey |
| 2002 | Michael F. Aylward | Boston, Massachusetts |
| 2003 | Thomas A. Packer | San Francisco, California |
| 2004 | Linda M. Lawson | Los Angeles, California |
| 2005 | Henry M. Sneath | Pittsburgh, Pennsylvania |

The **Rich Krochock Award** is presented to a DRI member who has provided exemplary leadership in the DRI Young Lawyers Committee.

- | | | |
|------|------------------------|-----------------------|
| 2001 | E. Wayne Taff | Kansas City, Missouri |
| 2002 | Kelly A. Freeman | Warren, Michigan |
| 2003 | Randall R. Riggs | Indianapolis, Indiana |
| 2004 | Charles A. Stewart III | Birmingham, Alabama |
| 2005 | Laura E. Proctor | Nashville, Tennessee |

The **G. Duffield Smith Outstanding Publication Award** is presented to the author(s) of the best feature article that appeared in *For The Defense* in the preceding year. Criteria include subject matter relevancy to practice interests of DRI members, fresh imaginative ideas, and a lively writing style.

1990	Brooke Wunnicke	Denver, Colorado
1991	Donald Patterson	Topeka, Kansas
1992	Georgia Staton	Phoenix, Arizona
1992	Angela M. Skinner	Phoenix, Arizona
1993	Martha A. Churchill	Chicago, Illinois
1994	Paul D. Coates	Greensboro, North Carolina
1995	William T. Birmingham	Phoenix, Arizona
1995	Charles D. Onofry	Phoenix, Arizona
1996	Carol Campbell Cure	Phoenix, Arizona
1997	Kevin M. Reynolds	Des Moines, Iowa
1997	Richard J. Kirschman	Des Moines, Iowa
1998	William H. Hardie	Mobile, Alabama
1999	Forrest S. Latta	Mobile, Alabama
2000	Alfred W. Cortese, Jr.	Washington, D.C.
2000	Phillip A. Wittmann	New Orleans, Louisiana
2001	Christine A. Hogan	Bismarck, North Dakota
2002	Craig A. Livingston	San Francisco, California
2003	Kenneth Ross	Minnetonka, Minnesota
2004	Bradley D. Honnold	Kansas City, Missouri
2005	Scott P. Stolley	Dallas, Texas

The **Louis B. Potter Lifetime Professional Service Award** is presented to a DRI member who, throughout his or her career as a practicing lawyer, has exemplified the very best in professionalism, always serving the best interests of clients and the general public.

1997	Donald Patterson	Topeka, Kansas
1998	James A. Dixon, Jr.	Tallahassee, Florida
1999	Brooke Wunnicke	Denver, Colorado
2000	Ollie L. Blan, Jr.	Birmingham, Alabama
2001	E. Wayne Taff	Kansas City, Missouri
2002	Samuel S. Woodley, Jr.	Rocky Mount, North Carolina
2003	Hugh E. Reynolds, Jr.	Indianapolis, Indiana
2004	Albert H. Parnell	Atlanta, Georgia
2005	Donald F. Pierce	Mobile, Alabama

The **DRI Community Service Award** is presented to a DRI member who has been involved in community activities that demonstrate his or her commitment to improving the social and/or cultural well-being of the general public.

1998	J. Robert Sheehy	Waco, Texas
1999	William T. Birmingham	Phoenix, Arizona
2000	Douglas G. Houser	Portland, Oregon
2001	George H. Mitchell	Phoenix, Arizona
2002	R. Matthew Cairns	Concord, New Hampshire
2003	J. Denny Shupe	Philadelphia, Pennsylvania
2004	Ronald R. Robinson	Los Angeles, California
2005	Patrick J. Sweeney	Philadelphia, Pennsylvania

Appendix Eight: Time Line

January 1960	IADC agrees to form Defense Research Institute.
March 1960	Debut of <i>For The Defense</i> .
August 1960	Defense Research Institute incorporated by the International Association of Insurance Counsel.
August 1960	Stanley C. Morris is chosen as first President of DRI.
December 1961	DRI has over 2,000 individual members and 180 insurance company members.
July 1962	James D. Ghiardi is appointed the first Research Director. DRI headquarters moved from Syracuse to Milwaukee.
March 1964	Joint meetings of DRI and insurance companies start.
November 1964	All IAIC members become members of DRI.
February 1965	Representatives of Federation of Insurance Counsel and Association of Insurance Attorneys are added to DRI Board of Directors.
April 1965	Expert Witness Bank service begins.
July 1965	Distribution of <i>For The Defense</i> to judges begins.
September 1965	Defense Practice Seminars program begins.
December 1965	All FIC and AIA members become members of DRI.
July 1966	Half million copies of <i>What Can I Do?</i> are published and distributed.
January 1969	<i>Responsible Reform</i> is published.
April 1969	First National Conference of Defense Bar Leaders is held.
January 1971	Brief Bank service begins.
July 1971	Membership recruitment campaigns begin.
1970s	Publications address crisis issues in products liability, medical liability, no-fault insurance, civil jury system. Defense Practice Seminars are established as an educational resource for defense lawyers.
September 1972	John J. Kircher succeeds James Ghiardi as Research Director.
January 1975	Adverse Expert Witness service begins.
January 1980	<i>For The Defense</i> grows to 32 pages.
January 1981	Publication of <i>Administration of Civil Justice</i> position paper.

October 1981	Louis B. Potter is appointed to newly created position of Executive Director.
July 1984	DRI headquarters moves from Milwaukee to Chicago.
September 1985	National Coalition on Litigation Cost Containment is organized.
June 1986	Structures Committee is established to explore future governance of DRI.
June 1988	Appointment of public relations director spurs campaign for greater media recognition.
September 1988	Campaign to recruit younger defense lawyers begins.
June 1989	DRI is restructured into 12 regions for governance purposes.
December 1989	Long Range Planning Committee replaces Structures Committee, recommends new governing structure for DRI.
May 1990	IADC tries to maintain governing control over DRI.
November 1990	First Insurance Roundtable meets.
December 1990	DRI individual membership passes 18,000.
July 1992	DRI gains administrative independence through historic agreement with IADC.
February 1995	Independence agreement is ratified by Voting members.
March 1995	New governing structure is implemented.
April 1995	Last National Conference of Defense Bar Leaders is held.
May 1995	The “Five Roles” of DRI is outlined by President Stephen G. Morrison.
June 1995	Regional VP position is eliminated, replaced by State Representatives designated by SLDOs.
September 1995	Members in regions elect regional Board members.
October 1996	First Annual Meeting is held in Chicago.
October 1997	Death of Executive Director Louis B. Potter.
April 1998	John R. Kouris is named Executive Director.
April 1999	DRI headquarters moves to a larger, modern space in Chicago’s Loop.
October 1999	Elections to leadership positions are held at Annual Meeting for the first time.
February 2000	Recommended Case Handling Guidelines are approved by Board.

June 2000	Small Law Firm Economics Symposium is held.
December 2000	<i>For The Defense</i> sets record of 84 pages.
September 2001	First Corporate Counsel Roundtable is held.
January 2002	<i>The Voice</i> is launched.
July 2004	<i>A Career in the Courtroom: A Different Model for the Success of Women Who Try Cases</i> study is published.
September 2004	<i>For The Defense</i> reaches 88 pages.
May 2005	Drug and Medical Device Seminar draws record crowd of 1,250.
July 2005	First annual symposium of National Foundation for Judicial Excellence.

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