

February 6, 2019

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## This Week's Feature



### Cease Fire! What Does It Mean to “Cease Collection of the Debt” Under the FDCPA?

By Gregory Farkas

Since its passage, the Fair Debt Collection Practices Act (FDCPA) has generated a number of statutory interpretation questions. The use of words such as “debt” and “foreclosure” that have popular meanings that are not always consistent with technical usage frequently has led to ambiguities. The United States Supreme Court is currently considering one such ambiguity concerning whether persons initiating non-judicial foreclosures are “debt collectors.” *Obduskey v. McCarthy Holthus LLP*, No. 17-1307. The Sixth Circuit recently considered another such issue: what does it mean to “cease collection of the debt” under the FDCPA?

*Article continues on page 4.*

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- Life, Health, Disability and ERISA, April 3-5, 2019
- Employment and Labor Law, May 8-10, 2019
- Intellectual Property Litigation, May 8-10, 2019
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- Drug and Medical Device Litigation, May 16-17, 2019

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- Counseling Drug and Medical Device Companies on Risk Prevention Strategies, March 6, 2019, 12:00pm-1:30pm
- Challenging Plaintiff's Use of Federal Regulations to Bolster Negligence Claims, March 13, 2019, 12:00pm-1:00pm
- Hot Topics in Public Utility Litigation, March 28, 2019, 12:00pm-1:00pm

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Andrew Stoker, Quarles & Brady LLP

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### Quote of the Week

"No matter what country you are from, no matter where you stand, offering food to those who are hungry is a good deed. It is justice in the most absolute sense."

—[Takashi Yanase](#) (February 6, 1919–October 13, 2013)

## This Week's Feature

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Since its passage, the Fair Debt Collection Practices Act (FDCPA) has generated a number of statutory interpretation questions. The use of words such as “debt” and “foreclosure” that have popular meanings that are not always consistent with technical usage frequently has led to ambiguities. The United States Supreme Court is currently considering one such ambiguity concerning whether persons initiating non-judicial foreclosures are “debt collectors.” *Obduskey v. McCarthy Holthus LLP*, No. 17-1307. The Sixth Circuit recently considered another such issue: what does it mean to “cease collection of the debt” under the FDCPA?

## The Decision

Similar to the *Obduskey* case, *Scott v. Trott Law, Co. P.C.*, No. 18-1051, 2019 U.S. App. Lexis 1015 (6th Cir. Jan. 11, 2019), also involved a non-judicial foreclosure. The plaintiff, Scott, had a mortgage with Bank of America. Bank of America retained Trott Law, P.C. (Trott), to initiate non-judicial foreclosure proceedings against the property.

Trott sent a letter to Scott that included the FDCPA notice of validation rights required by 15 U.S.C. § 1692g. Trott then arranged a sheriff’s sale of the property and published notices of the foreclosure in a local newspaper and mailed a copy of the notice to Scott.

Trott received a dispute letter from Scott after arranging for the sheriff’s sale and publication of the notices. Trott ceased collection activity and contacted Bank of America to verify the debt. However, Trott did not contact the sheriff’s department to cancel the sale and did not cancel publication of the notices in three editions of the newspaper after receipt of the dispute letter.

The U.S. Code, 15 U.S.C. § 1692(g)(b), requires a “debt collector” to “cease collection of the debt” after receiving a dispute letter. Scott sued Trott, claiming that it had not ceased collection of the debt because it failed to cancel the newspaper notices and sheriff’s sale. The district court granted summary judgment to Trott, finding that because

the firm stopped all of its activity after receiving the dispute letter, it had ceased collection of the debt.

The Sixth Circuit reversed. The court first noted that the FDCPA does not define “cease,” and there were no Sixth Circuit opinions addressing the issue, so therefore the court was on a “clean slate.” 2019 U.S. App. Lexis 1015, at \*12. The same as countless courts and attorneys before it, the Sixth Circuit then looked to Black’s Law Dictionary, which defines “cease” as “to stop,” “to come to an end,” and “to suspend or forfeit.” *Id.* Because 15 U.S.C. § 1692g applies the verb “cease” to the debt collector, the court reasoned that since Trott had set the debt collection process in motion, and there was “nothing else for it to do” before the foreclosure sale went forward, Trott violated 15 U.S.C. § 1692(g)(b), by failing to take affirmative steps to stop the sale and publication of the notices. *Id.* at \*12-13. The Sixth Circuit concluded that any other reading “would render the [consumer’s dispute] a nullity.” *Id.* at \*11.

## The Clean Slate

While the Sixth Circuit correctly noted that there was no prior authority within the Sixth Circuit on what it means to “cease collection of the debt,” it did not address authority from outside the jurisdiction. For example, in *Shimek v. Forbes*, 374 F.3d 1011 (11th Cir. 2004), the law firm defendant submitted a lien to the county clerk’s office on the same day that it sent the debtor the FDCPA notice of its validation rights. The debtor disputed the debt, prior to the recording of the lien. The law firm took no further action to collect the debt, but the lien was recorded by the clerk’s office after the dispute notice was sent.

The debtor alleged that the law firm’s failure to stop the recording of the lien was a violation of 15 U.S.C. § 1692(g)(b). The Eleventh Circuit disagreed, holding that “[t]he statute does not require the law firm to take ‘positive action’ and interfere, even if it was able to, with the Court Clerk’s duty to record liens.” 374 F.3d at 1014.

A later Eleventh Circuit ruling cited *Shimek* for the proposition that under 15 U.S.C. § 1692(g)(b), “a debt collector is not required to take some other affirmative step if the

consumer disputes the debt.” *Hespen v. Resurgent Capital Servs.*, 383 F. App’x 877, 883 (11th Cir. 2010). A number of district courts have reached similar conclusions that a debt collector is not required to take affirmative steps to “cease collection of a debt.” See, e.g., *Maynard v. Bryan W. Cannon, P.C.*, 650 F. Supp. 2d 1138, 1143–44 (D. Utah 2008); *Post v. Hodges Law Office, PLLC*, No. 3:18-cv-00538, 2018 U.S. Dist. Lexis 192522, at \*4 (E.D. Va. Nov. 9, 2018) (The “FDCPA did not require Hodges to dismiss the debt collection action that it initiated before Post’s request for verification.”); *Humphrey v. Brown*, No. 09-cv-3429, 2011 U.S. Dist. Lexis 1692 (D. Md. Jan. 7, 2011) (“Section 1692g(b) of the FDCPA merely prohibits debt collectors from engaging in certain debt collection activity; it does not impose on debt collectors an affirmative obligation to interfere with or cancel debt collection activity undertaken before the debt was disputed.”). The decision in *Shimek* was cited by Trott but not addressed by the Sixth Circuit in its opinion in *Scott*. The slate was therefore perhaps not as clean as the Sixth Circuit suggested.

## Conclusion

The Sixth’s Circuit’s decision in *Scott* creates another potential headache for counsel whose work can be considered debt collection. Such counsel must carefully evaluate their responsibilities under the FDCPA after receiving a notice of dispute from a debtor.

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[Gregory Farkas](#) is a partner with the law firm of Frantz Ward LLP in Cleveland, Ohio. His practice encompasses a variety of litigation matters, including commercial disputes and the litigation of lender liability, insurance coverage, and consumer fraud claims. He has represented defendants in numerous class actions in state and federal courts and has authored several articles concerning class action practice. Mr. Farkas is a member of the Steering Committee of the DRI Commercial Litigation Committee.

## And The Defense Wins

### Keep The Defense Wins Coming!

Please send 250–500 word summaries of your “wins,” including the case name, your firm name, your firm position, city of practice, and e-mail address, in Word format, along with a recent color photo as an attachment (.jpg or .tiff), highest resolution file possible (*minimum* 300 ppi), to [DefenseWins@dri.org](mailto:DefenseWins@dri.org). Please note that DRI membership is a prerequisite to be listed in “And the Defense Wins,” and it may take several weeks for *The Voice* to publish your win.

### Stephanie Douglas



On behalf of Ford, **Bush Seyferth & Paige PLLC** attorney [Stephanie Douglas](#) secured the dismissal of a 120-count nationwide class action in *Wozniak et al v. Ford Motor Company*, No. 2:17-cv-12794, that claimed the lug nuts on millions of putative class vehicles were defective, shutting down the action before discovery. As in other similar no-injury product-defect actions, a recent favorite of the plaintiffs’ bar, the plaintiffs alleged that a component of their vehicle (here, the lug nuts) required replacement outside of the warranty period, causing economic harm to those vehicles’ owners. The plaintiffs alleged no injury to themselves or others from the alleged defect. Although none of the plaintiffs had presented their vehicles for repair in compliance with the terms of their warranties, they asserted claims for breach of warranty, consumer fraud, and unjust enrichment. The Court agreed with BSP’s argument that the 429-page complaint failed to state a single viable claim.

The Court dismissed the plaintiffs’ “placeholder” claims for failure to state a claim, and dismissed counts for states without a named plaintiff for lack of standing. Enforcing the terms of the “New Vehicle Limited Warranty,” the Court dismissed the warranty claims for failure to plead compliance with the presentment requirement, and rejected the argument that because the parts outlasted the warranty, the warranty somehow failed its essential purpose. For the fraud claims, the Court dismissed the misrepresentation-based claims because Ford made no lug-nut-focused representations, and the omission-based claims for failure to plead “what” Ford allegedly knew but failed to disclose. The Court rejected Plaintiffs argument that complaints to the NHTSA allege knowledge “let alone exclusive knowledge.” Finally, dismissing the unjust enrichment claims, the Court held that Plaintiffs had not pleaded a benefit to

Ford, in part because Ford had no duty to pay for lug nut replacements outside the warranty.

### Laura Eschleman



Plaintiff, a pre-trial detainee, sued a city, a jail, a sheriff’s department, a hospital, multiple correctional officers, a nurse and DRI member [Laura Eschleman’s](#) client, a psychiatrist. Plaintiff alleged Defendants repeatedly used excessive force against him including beating, kicking, stomping, Tasing and striking Plaintiff with their fists. Plaintiff claimed that despite serious injuries caused thereby, he was not provided medical care or treatment for his injuries. Plaintiff additionally claimed he never received a proper mental assessment and that Defendants failed to provide Plaintiff with needed mental health care services. He further alleged that he was given Haldol and/or other injections of sedatives without diagnosis or prescription by a treating physician; and, that Defendants excessively used Haldol or a similar drug to sedate him as opposed to providing him appropriate mental health care. Plaintiff raised claims pursuant to 42 U.S.C. §1983, contending that Defendants’ deliberate indifference to his medical and mental health needs and excessive force violated his constitutional rights. Plaintiff also asserted state law claims for assault, battery and the “tort of outrage.” Laura moved to dismiss all claims against their psychiatrist client. With respect to the excessive force claim, the United States District Court for the Middle District of Georgia, Columbus Division, held that Plaintiff failed to state a claim upon which relief may be granted. The Court further held that absent specific facts demonstrating that the psychiatrist took some action or failed to take some action that could be construed as deliberate indifference to Plaintiff’s medical or mental health needs, those allegations also failed to state a claim. Plaintiff’s claim of improper medication without prescription suggested that prison officials acted without seeking advice from the psychiatrist and the Court held that Plaintiff’s failure to allege the psychiatrist’s involvement in forced administration of medication was fatal to his claim and must also be dismissed. The Court further held that the official capacity claims against the psychiatrist were redundant in light of the fact he separately sued each of the entities he believed were responsible for violating his constitutional rights. Additionally, the Court held that the state law claims of assault and battery were based on Defendants’ use of excessive force and must be dismissed because Plaintiff failed to allege any facts suggesting that

## And The Defense Wins

the psychiatrist used excessive force against him. The Court also held that even if the Court liberally construed Plaintiff's "tort of outrage" claim as one for intentional infliction of emotional distress, Plaintiff failed to state a cognizable claim as he did not describe any specific act or omission by the psychiatrist that was so terrifying or insulting as to naturally humiliate, embarrass or frighten him.

Ms. Eschleman also moved for dismissal based on Plaintiff's failure to exhaust his administrative remedies prior to bringing his §1983 action. According to the documents they submitted on behalf of their psychiatrist client, Plaintiff was an inmate in custody at the time he filed his Complaint. The jail had a grievance system available to all inmates. While Plaintiff filed several grievances while he was incarcerated, none of the grievances named the psychiatrist or described any conduct or misconduct by a doctor. The Court held that while an inmate need not name any particular defendant in a grievance in order to properly exhaust his claim, a grievance must alert prison officials to a problem and give them the opportunity to resolve it before being sued. Thus, the Court held Plaintiff's claims against the psychiatrist must be dismissed for a failure to exhaust. In addition, the Court held that although the normal remedy for a failure to exhaust under §1997e(a) is a dismissal without prejudice, the psychiatrist requested a dismissal *with* prejudice, reasoning that the jail's grievance procedures were no longer available to Plaintiff because Plaintiff had been released from jail. Thus, Plaintiff could no longer cure his failure to exhaust his administrative remedies. The Court agreed and dismissed Plaintiff's claims against Ms. Eschleman's psychiatrist client with prejudice.

Ms. Eschleman is a partner at **Nall & Miller LLP** in Atlanta, Georgia.

### Rory Jurman and Jill Mendelsohn



DRI members [Rory Jurman](#) (shareholder) and [Jill Mendelsohn](#) (associate) of **Fowler White Burnett PA** in Fort Lauderdale, Florida, recently won a defense

verdict in *Judith S. Norkin, as Putative Personal Representative of the Estate of Jeffrey Robert Norkin vs. J.V. Associates (PB) LLC d/b/a Four Seasons Resort Palm Beach, and Four Seasons Hotels Limited Corporation d/b/a Four Seasons Resort Palm Beach*.

A jury found that the Four Seasons Resort Palm Beach was not to blame for an alleged table cloth that caused Jeffrey Norkin to fall and sustain injury to his ribs and minor abrasions to his palms and knees.

The key question in the trial: Did Jeffrey Norkin's fall on at the Four Seasons Resort Palm Beach cause a leak of Norkin's cerebral spinal fluid, which resulted in two surgeries?

Dr. Norkin, a retired orthodontist, had booked to dine at a cabana overlooking the ocean with his wife to celebrate their forty-fifth wedding anniversary. While dining, Dr. Norkin stood up from the table, and as he stood, his foot caught in the table cloth and he fell. A security officer treated Dr. Norkin for his abrasions to his palms and knees, and the guest and his wife checked out the next day.

Norkin's attorneys argued the hotel was responsible for two surgeries. They argued the fall tore open the dura of the spinal cord that had been repaired in September 2013 surgery. The Plaintiff also argued that the fall caused a leak of cerebral spinal fluid into the soft tissues of the back.

Fort Lauderdale defense attorneys Rory Jurman, Jill Mendelsohn, and Jesse Drawas of Fowler White Burnett PA had to dismantle the argument piece by piece, and argued the fluid build-up in his thoracic spine was pre-existing and was as a result of Dr. Norkin's cancer of the Cowper's gland which had metastasized throughout his whole body. Additionally, defense attorneys argued that nobody witnessed the fall and there was no evidence that the table cloth caused Norkin to fall.

Plus, Norkin's wife's decision to finish dining at a cabana overlooking the ocean showed that she didn't believe he needed any additional assistance, the defense argued.

After deliberating for two and a half hours, the jury returned a defense verdict.

## 2019 Law Student Diversity Scholarship

DRI announces its annual **Law Student Diversity Scholarship Program**, open to rising (2019–20) second- and third-year African American, Hispanic, Asian, Native American, LGBT, and multi-racial students. All rising second- and third-year female law students are also eligible, regardless of race or ethnicity. Any other rising second- and third-year law students who come from backgrounds that would add to the cause of diversity, regardless of race or gender, are eligible to apply. Students who are members of the American Association for Justice (AAJ), law school or law student members of AAJ, or students otherwise affiliated with or employed by AAJ are not eligible for DRI Law Student Diversity Scholarships.

To qualify for this scholarship, a candidate must be a full-time student. Evening students also qualify for consideration if they have completed one-third or more of the total credit hours required for a degree by the applicant's

law school. The goal of these scholarships is to provide financial assistance to two worthy law students from ABA-accredited law schools to promote, in a tangible way, the DRI Diversity Statement of Principle. See the last page of the application for the DRI Diversity Statement.

Two scholarships in the amount of \$10,000 each will be awarded to applicants who best meet the following criteria:

- Demonstrated academic excellence
- Service to the profession
- Service to the community
- Service to the cause of diversity

**Applications and all other requested materials must be received by April 1, 2019.** [Click here](#) to access the 2019 Law Student Diversity Scholarship application.

## Laurel Road Student Loan Refinancing for DRI Members—Benefits Extended to Parents

One of DRI's most recently added member benefits is the Laurel Road Student Loan Refinancing Program. Please click [here](#) to review program details in their entirety.

### Program-at-a-Glance

The **Laurel Road Student Loan Refinancing Program** offers fixed and variable rate loans in terms of 5, 7, 10, 15, and 20 years. Laurel Road offers qualified DRI members an interest rate discount of 0.25 percent, **contingent on DRI membership**. If a program participant drops their DRI membership, their loan rate increases. Laurel Road currently lends to graduates of 5,345 qualified secondary education institutions. They have lent to borrowers in all 50 states. The average lawyer graduates with \$84K to \$122K in student

debt. The average starting salary is \$135K. Laurel Road can save DRI members on average \$20,000 plus over the life of an average student loan.

### Recently Added Bonus for Parents

In addition to the established member benefit, Laurel Road now offers its student loan refinancing program to parents who have taken out loans for their children's college education. Parents are able to take advantage of the same low rates that graduates can and are eligible to apply as soon as their child has graduated. Specifics on the recently added bonus for parents can be found [here](#).

DRI Cares

# MDLA Holds Clothing Drive During Annual Membership Meeting

The **Mississippi Defense Lawyers Association** (MDLA) held its Annual Meeting on February 1, 2019, at the Embassy Suites in Ridgeland, Mississippi, during which a clothing drive was held to support two agencies: [New Way Mississippi](#) (Men's Wear) and [Dress for Success](#) (Ladies Wear). MDLA reported 93 items donated for New Way Mississippi

(5 two-piece suits, 9 suit coats, 19 pairs of dress pants, 20 dress shirts, 21 neck ties, 7 belts, 11 pairs of shoes, and 1 leather brief case); and 19 items donated for Dress for Success (3 jackets, 8 two-piece suits, 1 three-piece suit, 1 dress, four blouses, and 2 skirts).



## The Future of Our Profession

Please take advantage of one of the many offerings that [DRI LegalPoint](#) has to offer and read “[The Future of Our Profession](#),” by Christiane R. Fife. At the time this was written, Christiane R. Fife was chair of the DRI Young Lawyers Committee and served as corporate counsel at the Portland, Oregon, headquarters of Daimler Trucks North America (DTNA), the largest heavy duty vehicle manufacturer in North America. She is a member of the DTNA litigation department, which manages the company’s global product liability, warranty, lemon law, motor vehicle and property damage litigation.

**DRI LegalPoint** (formerly DRI Online) is a DRI members-only service that provides exclusive access to a vast online library of DRI articles, books and materials. Members can search thousands of documents and filter them

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dri Trial Skills and Damages Seminar

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Las Vegas

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The evolution of legal practice over the past several decades has been shaped by technological innovation. Technology simultaneously provides a medium through which we can educate juries on complex matters and provides lawyers with the tools that they need to make better decisions leading up to and during trial. That is not to say that technology dominates the courtroom. Come learn how you can blend proven trial tactics and technology through presentations and demonstrations on effectively navigating the complex damages case, including mock oral arguments and hard-hitting technology-focused presentations from experts and consultants. Join us at the new Park MGM Las Vegas Hotel this March for practice-enhancing education and networking. Click [here](#) to register for the program.

**Life, Health, Disability and ERISA, April 3–5, 2019**



dri Life, Health, Disability, and ERISA Seminar

April 3–5, 2019  
Chicago

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DRI's Life, Health, Disability, and ERISA Seminar is the annual must-attend event for anyone whose practice touches any of these areas. It offers 23 substantive presentations, in which leading practitioners will provide insights into trends and developments in the law, as well as practical tips you will not want to miss. All of your favorite networking opportunities are back, including the Women's Networking Dinner, dine-arounds, a post-dinner reception hosted by the Young Lawyers Subcommittee, multiple DRI for Life events and new this year, an onsite community service project. Click [here](#) to register for the program.

**Employment and Labor Law, May 8–10, 2019**



dri Employment and Labor Law Seminar

May 8–10, 2019  
Phoenix

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DRI's 42nd annual Employment and Labor Law Seminar is the preeminent educational and networking event for management-side labor and employment attorneys, in-house counsel, human resources professionals, and EPLI representatives. Always intensely practical and accompanied by superior written materials, this seminar is a must-attend for experienced practitioners, as well as for those who are just getting started in labor and employment law. Don't miss this opportunity to learn from some of the best practitioners and professionals in the labor and employment arena. Click [here](#) to register for the program.

**Intellectual Property Litigation, May 8–10, 2019**



dri Intellectual Property Litigation Seminar

May 8–10, 2019  
Austin, TX

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This year, we take a look at a variety of issues relevant to IP litigators—ranging from building a strong case for attorneys' fees to IP issues from an in-house perspective. We will explore emerging issues in patent, copyright, and trademark law, focusing on industries such as video gaming, and provide practical, cutting-edge strategies for issues that IP litigators face every day, such as consumer surveys. We will join in a plenary session with the DRI Commercial Litigation Committee, where we will learn insights from Alberto Gonzalez, former U.S. Attorney General and White House Counsel to President George W. Bush; explore the pros and cons of arbitration; and hear the perspective of a retired judge on the changing landscape of truth in the United States. Our young lawyers also have the opportunity to join the Young Lawyers Breakout on Wednesday afternoon. Click [here](#) to register for the program.

Upcoming Seminars

**Cannabis Law, May 15, 2019**

dri	Cannabis Law Seminar
	May 15, 2019 Washington, D.C. <a href="#">REGISTER TODAY</a>

Thirty-three states have legalized medicinal cannabis and 10 states have legalized the recreational use of cannabis. However, the combination of the Controlled Substance Act (Schedule One), the resignation of Jeff Sessions, and ongoing regulatory uncertainty presents a barrier to full realization of the potential of this \$50 billion-plus business. This quickly developing sector affects virtually every area of the law and provides opportunities to those with the knowledge base to guide clients and companies deftly through a shifting regulatory and legal landscape. DRI's Cannabis Law Seminar provides you with subject matter experts who will share with you the knowledge and strategies needed by professionals, businesses, and insurers to traverse the complex pitfalls and prospects of cannabis legalization successfully. Click [here](#) to register for the program.

**Drug and Medical Device Litigation, May 16–17, 2019**

dri	Drug and Medical Device Litigation Seminar
	May 16–17, 2019 Washington, D.C. <a href="#">REGISTER TODAY</a>

Please join us in our nation's beautiful capital for the 2019 Drug and Medical Device Seminar. This seminar will provide more opportunities than ever to network with in-house counsel, leading pharmaceutical and medical device lawyers, and friends old and new. You will also hear an FDA insider's views regarding issues facing the industry and top appellate attorneys' thoughts regarding recent and relevant decisions affecting how we defend our clients. These and other top-notch programs make this seminar the "go-to" event year after year for practitioners in the pharmaceutical and medical device defense arena. Click [here](#) to register for the program.

On-Demand

**The ALI Restatement on Liability Insurance—  
What You Need to Know (Part 1)**

Editor's Note: In each week's issue of *The Voice* throughout 2019, a new DRI On-Demand item will be featured. For a complete list of currently available DRI On-Demand items, click [here](#).

Overview of the major coverage issues addressed in the recently approved ALI Restatement on liability insurance,

which took almost a decade to finalize involving significant drafts and revisions to complete based on input from both the carrier and policyholder bars.

If this **On-Demand** offering from DRI sounds valuable to you, click [here](#) to take advantage and check back each week in *The Voice* for a newly featured item.

## Upcoming Webinars

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### Welcome to the New Normal: Synthetic Drugs of Abuse, February 13, 2019, 12:00pm–1:00pm



Law enforcement officers and first responders across the country face serious challenges as they interact with suspects and patients under the influence of illegal drugs. Those challenges have increased in recent years as the proliferation of synthetic drug abuse abounds. These drugs have enhanced side effects and rarely show up on standard drug screenings. This webinar will present a general overview of synthetic drugs of abuse as well as some case-based discussion. We will also discuss limitations of drug testing and predictions for what is to come regarding illicit drug use. We will also discuss best practices for attorneys defending excessive force, false arrest, and malicious prosecution cases (among others) involving plaintiffs under the influence of these types of drugs. Click [here](#) to register.

### Counseling Drug and Medical Device Companies on Risk Prevention Strategies, March 6, 2019, 12:00pm–1:30pm



Pharmaceutical and medical device manufacturers encounter numerous risks which, if not handled properly, could lead to litigation. Risks include the challenges of properly marketing products, complying with numerous regulations and emerging adverse events. Mass tort litigation, and challenges based on the False Claims Act and the Antikickback Statute among others, pose perpetual risks along with handling the erosion of time tested defenses such as the learned intermediary doctrine. With an ever-shifting tide, it is important to stay current on these topics. Register now to learn from top attorneys whose focus is watching for and defending against these risks. Click [here](#) to register.

### Challenging Plaintiff's Use of Federal Regulations to Bolster Negligence Claims, March 13, 2019, 12:00pm–1:00pm



This "Lunch and Learn" webinar will provide an in-depth look at the Federal Motor Carrier Safety Regulations ("FMCSRs") relating to driver qualification, hours of service, and equipment maintenance and will address how such regulations are used by plaintiffs to establish "safety rules" that bolster their negligence claims. Attendees will also learn about recent court decisions analyzing the extent to which an alleged violation of the FMCSRs by a motor carrier or driver can support a plaintiff's negligence claims and will take away practical pointers on how to best combat a plaintiff's use of such regulations. Click [here](#) to register.

### Hot Topics in Public Utility Litigation, March 28, 2019, 12:00pm–1:00pm



This webinar will explore some of the most pressing litigation issues facing public utilities today. Attendees will hear from seasoned litigators regarding the trespassing/attractive nuisance and post-OSHA toxic tort cases that public utilities are currently facing. The discussion will include how these cases are evolving, key discovery and strategic considerations public utilities and their outside counsel must make, and best practices for managing these types of risk. Further, you will hear directly from in-house litigators at public utilities on how they view litigation risk and costs and how their outside counsel can become better partners with public utilities to control costs and manage risk. Click [here](#) to register.

## DRI Membership—Did You Know...

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Are you ready for more business? If so, make it easy for another attorney, a law firm, an insurance company, or a new business connection to find you online—your experience, your particular expertise, in the right city at the right time. [Build](#) your profile by logging into your DRI account and update or expand your professional profile. It's free advertising! Your profile will appear in [DRI's Membership Directory](#) and it will help new business find you.

Did you know that DRI's Membership Directory is online, it's free and it's what more than 10,000 attorneys and companies use every month to find someone like you? The DRI Membership Directory is searchable on a number of important variables.

Build your profile and keep it up to date (*most important*).

- Your firm and address
- Your practice areas
- Your professional biography
- DRI Committees
- DRI articles you've authored
- DRI speaking engagements
- Your litigation success stories published in "And the Defense Wins" in The Voice, DRI's online newsletter read by thousands of members.

If you build it, they will come.

*"Those at the top of the mountain didn't fall there."*—Unknown

## State Membership Chair/State Representative Spotlight

### California



#### State Membership Chair

**Cynthia Pertile Tarle**, Founder and Managing Partner, Tarle Law PC

Areas of Practice: Business Transactions, Commercial and Business Litigation, Construction, Energy/Nuclear Environmental, General Liability and Casualty, Higher Education Intellectual Property, Insurance Coverage, Insurance Defense Litigation, Personal Injury, Premises Liability, Product Liability, and Transportation.

DRI member for 8 years.

Cynthia's experience with DRI: "When I joined DRI I found it to be one of the best defense organizations in the nation with excellent seminars and resources. DRI also gave me the opportunity to connect with like-minded defense counsel to discuss legal issues and managing partners facing the same business challenges in running a law firm. Since becoming the DRI California State Membership Chair, I have been actively working to broaden membership through my existing relationships, by working with other defense organizations, and by sharing my DRI experiences and its value with other defense attorneys."

Fun Fact: "I have a husband; four kids under 15; two standard poodle puppies, and a cat!"



#### State Representative

**Glenn M. Holley**, Partner, Schuering Zimmerman & Doyle LLP

Areas of Practice: General Defense & Professional Negligence

DRI member for 10 years.

Glenn's experience with DRI: "Being involved and taking advantage of the many benefits of DRI are keys to a great experience with DRI. Being the State Representative for California and involved with the committees, has, and is, an awesome experience."

Fun Fact: "I've dabbled with a number of musical instruments over the years. After a trip to Santa Fe, the Native American Flute has become my current friend! I don't know the name of a single note, but enjoying the sound!"

## New Member Spotlight

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### Andrew Stoker, Quarles & Brady LLP



Andrew Stoker is an associate in the Milwaukee office of Quarles & Brady LLP and he works in the firm's product liability group. Andrew's practice focuses on defending manufacturers in personal injury and wrongful death lawsuits.

He is a skilled litigator with significant experience drafting dispositive motions and other pretrial pleadings. His recent experience includes defending the deposition of a corporate representative. In addition, he is involved in the firm's pro bono efforts. A Wisconsin native and avid Badger fan,

Andrew received his bachelor's degree from the University of Wisconsin. He attended law school at the University of Illinois College of Law, where he graduated summa cum laude. In his spare time, he enjoys reading legal thrillers by John Grisham and Michael Connelly. His favorite book is *The Litigators* by John Grisham. Andrew is admitted to the State Bar of Wisconsin, as well as both federal district courts in Wisconsin. He can be reached at [andrew.stoker@quarles.com](mailto:andrew.stoker@quarles.com).

## Quote of the Week

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"No matter what country you are from, no matter where you stand, offering food to those who are hungry is a good deed. It is justice in the most absolute sense."

—[Takashi Yanase](#) (February 6, 1919–October 13, 2013)