



## Declaration of Candidacy

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

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

Position sought

Second Vice President\*     Secretary- Treasurer     National Director

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

Yes     No

Name John S. Guttman

---

Firm/Company Beveridge & Diamond P.C.

---

Address 1900 N Street, NW, Suite 100, Washington, DC 20036

---

Telephone 202-789-6020

Cell Phone 202-255-0512

---

E-mail jguttman@bdlaw.com

---

## Education

University of Pennsylvania, BA 1975 cum laude  
Cornell Law School, JD 1978 – Cornell Law Review (Note Editor 1977-78)

---

## Awards and achievements

Best Lawyers in America – Washington, DC Lawyer of the Year for Mass Tort Litigation 2020  
Best Lawyers in America – Mass Tort Litigation/Class Actions 2015-2021  
Best Lawyers in America – Environmental Litigation 2015-2021  
Super Lawyers – Washington, DC 2015-2020  
Super Lawyers – New York 2016-2020  
Who's Who Legal – Environmental Law 2017-2021  
Fellow – Litigation Counsel of America 2015-2021

## Presentations

Over the years, I have accepted invitations to speak on topics related to my practice at conferences held by the Environmental Law Institute, the American Institute of Certified Public Accountants, the American Bar Association, the Association of the Bar of the City of New York, and at an annual Advanced Conference on Litigating Natural Resource Damages. In addition, I have taught multiple continuing legal education programs for the District of Columbia Bar.

---

## Areas of practice

My practice today is focused on complex litigation, primarily in the environmental and toxic tort areas. Many of my cases are based in large part on product liability theories. The cases fall into several categories. One group involves the defense of class actions and mass tort cases in which plaintiffs allege exposure to chemicals via air and water. Those cases include claims for personal injury, medical monitoring and property damages. Another significant part of my practice is devoted to the defense of cases brought against businesses by states seeking significant recoveries for natural resource damages (NRD), such as alleged impacts to water resources. I also represent companies in the defense of citizen suits involving claims under federal environmental statutes. Some of those matters include claims that our clients' facilities are not prepared to withstand the effects of climate change. Finally, I also represent corporate clients as plaintiffs in the pursuit of indemnity claims related to the underlying environmental cases in which I have defended them.

In addition to my work serving as counsel for business clients, I have on a number of occasions served as an expert witness in matters where my expertise is relevant.

---

Employment history (Please do not include years)

Law Clerk to United States District Judge Aubrey E. Robinson, Jr., United States District Court for the District of Columbia

Associate at Beveridge & Diamond, PC

Shareholder at Beveridge & Diamond, PC  
(Managing Shareholder of the firm for six years)

---

Noteworthy defense work

I am lead counsel for a petroleum refiner in the MTBE Product Liability Multi-District Litigation, which is venued in the U.S. District Court for the Southern District of New York. Over time, I have also represented that refiner in multiple MTBE cases in state courts and other federal courts outside the MDL. I have been one of the principal voices for the industry defense group, both in active litigation and in the settlement of over 100 cases. The MDL docket has included class actions, suits brought by public water providers and state-wide NRD cases brought by multiple states and the Commonwealth of Puerto Rico. The claims in the NRD cases have each purportedly been valued in excess of \$1 billion.

I currently serve as co-lead counsel for a petroleum refiner in the defense of a case brought by a nongovernmental organization alleging that our client's terminal is not prepared to withstand the effects of stronger and more frequent storms caused by climate change. The plaintiff claims that ultimately the facility will suffer serious damage that will harm the surrounding ecosystem.

I served as lead counsel for a major defense contractor in an NRD case brought against multiple companies by the government of the United States Virgin Islands. The case related to contamination of the site of a former alumina refinery on St. Croix. The case was venued in the U.S. District Court for the Virgin Islands. We resolved it shortly before trial via a favorable settlement. I currently lead a team that is representing the company as plaintiff in a follow on indemnity case pending in U.S. District Court for the Southern District of New York. In that second case, we are seeking to recoup the vast bulk of the costs being paid to remediate the contamination of the site on St. Croix.

I led a team of attorneys at my firm who represented the District of Columbia Water & Sewer Authority in the defense of a docket of cases in which the plaintiffs alleged that children were injured by drinking water contaminated with lead. I argued in opposition to certification of a purported class estimated to include approximately 5,000 children. The court denied class certification. Then, in an individual plaintiff case, with a colleague, I challenged the admissibility of the plaintiff's causation expert at a multi-day Frye hearing. The plaintiff's counsel then reached out and negotiated a very modest settlement before the judge ruled on our motion. The same expert on causation had been designated by the remaining plaintiffs and the other cases in the docket settled shortly thereafter.

I served as lead counsel for a petroleum refiner in the defense of a class action filed against multiple refiners in U.S. District Court for the Southern District of Florida in which the plaintiffs alleged that parts of the fuel systems of motor boats were damaged by certain compounds included in motor fuels. The court denied class certification. The matter then settled for a nominal sum.

I served as lead counsel for a petroleum refiner in a dispute with the Department of Defense (DOD) concerning whether a petroleum plume underneath a neighborhood in South Philadelphia originated from our client's refinery or from a former DOD facility that had been located nearby. The matter was submitted to nonbinding arbitration. After a multiday evidentiary hearing, the arbitration panel found that the plume had originated at the defense facility rather than at our client's refinery.

---

#### Professional affiliations

International Association of Defense Counsel  
My Firm's Lead Representative to Lawyers for Civil Justice  
District of Columbia Defense Lawyers Association  
International Institute for Conflict Prevention & Resolution – Chair, Environmental Committee 2014 - 2018  
American Bar Association  
Fellow, American Bar Foundation  
District of Columbia Bar  
Bar Association of the State of New York  
Bar Association of the City of New York

Admitted to Practice:

District of Columbia

State of New York

United States Supreme Court

United States Court of Appeals for the District of Columbia Circuit

United States Court of Appeals for the 2<sup>nd</sup> Circuit

United States Court of Appeals for the 5<sup>th</sup> Circuit

U.S. District Court for the District of Columbia

U.S. District Courts for the Northern, Southern and Eastern Districts of New York

U.S. District Court for Maryland

---

Have you been a DRI member for 5 or more years? Yes

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

**DRI National Director** 2018 – present

Board Liaison to the Litigation Skills Committee 2018 – present: Advising the Committee's leadership on revitalizing its Steering Committee and pipeline, renewing its ties to the Diversity Committee, connecting with the Corporate Counsel Committee and focusing its strategy

Member, Governance Committee: Updating the DRI By-Laws to reflect changes in the DRI structure and operations

Member, Committee of National Directors that has proposed updates to the Committee Chair and Board Liaison Reports and related process. I have played a leadership role in this process.

Responsible along with a former Board member for training the entire Board on best practices for Board Liaisons to the Substantive Law Committees

Provided both written comments and oral testimony on behalf of DRI to the Advisory Committee on the Federal Rules of Civil Procedure concerning proposed amendments to Federal Rule 30(b)(6)

## **DRI's Center for Law & Policy**

Climate Change Task Force – Vice Chair 2018 – present, member 2017: Drafting Climate Change Hot Sheet for The Voice; recruited members of the Toxic Tort & Environmental Law Committee to write updates on climate change decisions for The Voice; recruited corporate counsel to join the Climate Change Task Force

## **Toxic Tort & Environmental Law Committee**

Chair 2016 – 2018: Introduced local and regional networking events; strengthened ties with the Diversity & Inclusion Committee; increased speaking opportunities for young lawyers at the Committee's seminars; streamlined the Committee's Steering Committee; increased diversity in the Committee's leadership; identified and mentored young lawyers who are potential leaders of the Committee

Vice Chair 2014 – 2016

Steering Committee 2018-present

Member 2010 - present

## **Product Liability Committee**

Member 2010 - present

## **Litigation Skills Committee**

Member 2010 – present

## **DRI Presentations**

2019 Toxic Tort & Environmental Law Conference - Moderator, Panel on Climate Change Litigation

2018 Toxic Tort & Environmental Law Conference – Moderator, Panel on Insurance Coverage Issues

2015 Toxic Tort & Environmental Law Conference – Presenter, The Future of Natural Resource Damages Litigation

## **DRI Publications**

Climate Change Hot Sheet – The Voice, November 25, 2020

From The Chair: Working Aggressively to Advance Our Clients’ Interests - For The Defense, June 2018

Beware the Litigation Risks of Emerging Contaminants – Toxic Tort & Environmental Law Committee Newsletter, July 2017

From The Chair – For The Defense, June 2017

Additional Notes From The Chair – Toxic Tort & Environmental Law Committee Newsletters, 2017 - 2018

---

List any leadership roles in other defense organizations.

None

---

Describe your goals if you are elected to the above position.

DRI has given me a lot. It has enabled me to deepen my relationships with clients, expand my network, promote my firm and develop personal relationships that I cherish. My DRI involvement has been among the most rewarding aspects of my career. While I feel that I have made a small contribution to this incredible organization, I want to do more. I believe I can do so as an officer and that now is the time for me to do so.

We are practicing law in an era of rapid change. One of my goals as an officer would be to encourage everyone to ask questions that start with the words “why not.” Put differently, DRI must be open to new ideas and suggestions. DRI now has a Chief Executive Officer. Responsibility for certain tasks is shifting from the Executive Committee to the CEO. Responsibility for other tasks is shifting from the Steering Committees of the 29 Substantive Law Committees to the DRI Staff. Those changes should free up DRI’s officers and DRI’s Committees for more strategic thinking and planning. At both levels, new ideas and fresh thinking must be encouraged. DRI must be willing to try new things. Openness to new ideas must, however, be accompanied by an awareness that not all of them will work. Things that are not successful should be modified or put aside as DRI moves on.

DRI must be nimble. As lawyers, our clients increasingly expect us to give them answers quickly. Clients now often want a brief summary of our legal analysis in an email rather than a more formal memorandum. DRI's members and volunteers are entitled to expect the same fast turnaround from the leadership of the organization. For example, our competition is fast out of the gate with timely content, such as webinars and podcasts. We must be faster. Staff driven decision making should facilitate this. We need to focus on how to accelerate the total process from idea generation at the Committees, to content creation, to Law Institute approval, to staff and volunteer implementation.

In addition, we face an important reality: there is an abundance of free and low cost content available to our members and others. As a result, DRI must be open to reassessing pricing models and packages. This reassessment should extend to both membership and CLE content. Here is one example. Many industries are now moving toward subscription models. Even companies in the health care sector are testing subscription models for medical care. DRI should evaluate whether subscription packages for CLE content will work for DRI's members and for DRI itself. Any such offerings must, however, take into account differing needs and economic circumstances across the profession from solo practitioners to large law firms. A subscription model for online programming could lead to more offerings, thereby providing more platforms for DRI members to improve their personal brands, while also tightening their engagement with DRI. Again, however, subscription offerings might or might not be successful. The key is to evaluate and try new ideas.

DRI is in an excellent financial position. We are faring much better than most professional membership organizations. However, that positive position can change if we are not careful and do not stay focused. One thing that is essential is having the best possible data on our members, their needs and what they want from DRI. This includes data on the demographics of our members, including with respect to diversity. This information should be collected at the time of membership applications and renewals, as well as registrations for seminars and on-line programming. We should monitor demographic data on the composition of all of the committees.

Emphasis on Diversity and Inclusion is critically important to the future of DRI. The emphasis must be real and significant. The inherent value of Diversity and Inclusion must be recognized and embraced. DRI represents all members of the defense bar and its diversity should be reflected in DRI's membership and leadership.

Diversity and Inclusion is also critical for another reason. DRI identifies itself and its members as Lawyers Representing Business. In 2021, Diversity and Inclusion are important values for business in America. Many companies now ask their law firms to report on both their diversity statistics and their internal diversity initiatives. We should subject ourselves to the same type of scrutiny before others do so. We need better data on where we stand so that we can better assess areas of weakness, where we need to go



and how to get there. For example, part of the discussion should be whether to establish goals for diversity in our programming. This consideration applies most clearly to faculties for seminars and on-line offerings. However, diversity considerations may also come into play in other ways, such as evaluating the composition of committee leadership pipelines, reviewing seminar attendance demographics and marketing approaches, and planning networking events.

I believe that my background positions me to play a helpful role in addressing the challenges that DRI faces. I have served in several positions that have exposed me to the finances of different types of businesses – and DRI is a business as well as a service organization.

I was the Managing Shareholder of my law firm during a period of transition from the founding generation of shareholders to the next generation. As part of that transition, we developed a new capital structure for the firm as well as a new compensation system. My experience managing a national law firm would be of value to me in serving as a DRI officer. I led a strategic planning process that focused on ways to make the firm better known in the marketplace and emphasized cooperative business development. I managed the firm's banking relationship and developed a focus on cost cutting while preserving value. Most fundamentally, I led our shareholders during a period of profound change in the institution.

For many years, I have served pro bono as the General Counsel of NAEM, formerly the National Association for Environmental Management. NAEM is the professional association of corporate environmental affairs professionals. That role has given me the opportunity to work with the staff and a volunteer executive committee and board, both of which change annually. I have been able to observe and participate in their interactions over time – what has worked well and what has not – as the organization has grown significantly. My experience with NAEM has involved working closely with an association of professionals, which has been undergoing growth and change.

Finally, outside the legal context, I am currently Chair of the Board of the C&O Canal Trust. The Trust is the official nonprofit partner of the C&O Canal National Historical Park, which is a unit of the National Park System. In that capacity, I work with the President of the Trust, who leads the professional staff, as well as the rest of the organization's Board of Directors. The Trust works closely with the Park's Superintendent and Staff to operate various programs and raise funds that help the Park to fulfill its mission of serving the public. The C&O Canal National Historical Park is one of the 10 most visited national parks in America. My experience with the C&O Canal Trust has taught me much about the respective roles of a volunteer board versus professional staff as well as leadership during times of change, such as all organizations have faced during the past year.

Everyone taking the time to read the 2021 Declarations of Candidacy submitted by the excellent candidates for Second Vice President, Secretary Treasurer and National Director, knows what DRI offers to the members of the defense bar and their business and individual clients. However, DRI is still not well enough known. We need to keep spreading the word. That must be a key goal for the coming years. In particular, we must make DRI better known among the business community. Over my career, I have been able to develop relationships with senior lawyers at companies in a number of industries, some of whom I have introduced to DRI events. Some of them knew little about DRI. Key steps must be to explore ways to enrich the value of DRI membership for in house counsel and then convey that value to them. A separate step is to communicate that value to corporate General Counsels so more of them will want their legal teams to become a part of DRI. A third step is to offer, and convey, a legitimate value proposition for General Counsels themselves. DRI's Center for Law and Policy should be part of that value proposition.

DRI is taking steps to elevate the role and profile of the Center for Law and Policy. Those actions are critically important to DRI's future. They will bring added value for business and, as a result, should help bring more in house counsel into the fold. When that happens, it necessarily follows that the value of DRI involvement for lawyers in private practice also will be enhanced. The Center must be a centerpiece of DRI in the future. It is noteworthy, though, that at the moment the contribution of the Center is not well understood even by some DRI members. We must communicate the importance and value of the Center at every opportunity. It is a gem.

---

What do you believe is the most important issue confronting the defense bar?

I believe that the most important issue confronting the defense bar is the increasingly sophisticated economic model plaintiffs' firms use to finance litigation. Third party litigation funding is one part of the issue but it is not the entire issue. As the costs of litigation keep rising, plaintiffs' firms are increasingly joining forces to share costs in major cases. Some firms may play only minor roles in actively litigating particular cases, while serving primarily as "banks" that help finance those matters. Others find and file cases while playing only minor roles in financing them. Some plaintiffs' firms are becoming quite large. Those bigger firms can staff and finance numerous big cases in multiple areas of practice. The large firms will work together, filing cases across the country and trying to extract large settlements because of the litigation risk presented by the scale involved rather than the merits. In these matters, plaintiffs' firms work together in a cooperative fashion, dividing responsibilities and following through without poking their sharp elbows at each other. They do so because they have a common economic motivation.

---

What can be done to counter this economic model? It is a hard question. Pushing for increased transparency is an important step where DRI can play a role. Law firms that are financing litigation but are not actively representing clients in a case are really acting no differently than third party litigation funding entities. The Center for Law & Policy could study the ways in which plaintiffs' firms operate as "joint ventures" and consider possible ways to address the trend.

Define the appropriate role for DRI as the national defense bar organization.

DRI is the voice of the defense bar. However, it is not as well-known as it should be. It needs to speak with a louder voice. The Center for Law and Policy must be elevated as a voice of business and the voice of the defense bar on matters related to law and policy. DRI must advance Diversity and Inclusion in the profession. DRI must continue to provide a platform for its members to advance their careers. Finally, DRI must be there for its members throughout their careers and, indeed, throughout their lives. DRI's goal must be that members who start on the Young Lawyers Committee will follow through and be committed to DRI as they finish their careers because DRI for Life has enriched their professional lives and relationships.

---