



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 1st of the year in which the election is held.

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

Position sought

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

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

☐ Yes ☐ No

Name Marie E. Chafe

Firm/Company Conn Kavanaugh Rosenthal Peisch & Ford, LLP

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E-mail MChafe@connkavanaugh.com

Education Colby College (B.A. 1987, double major in biology and psychology)

George Washington University Law School (J.D. 1990)

Awards and achievements

| | |
|----------------|---|
| 2014 – present | Preeminent AV Rated – <i>Martindale Hubbell</i> |
| 2016 – present | Super Lawyer, Civil Litigation and Product Liability Defense |
| 2022 | Top Rated Litigator as selected by Martindale-Hubbell for publication in <i>The National Law Journal</i> and <i>The American Lawyer</i> |
| 2021 - 2022 | DRI Exceptional Performance Citation, for work as MassDLA President |
| 2016-2018 | Top Women Attorneys of Massachusetts |
| 2015 | WITL Committee Outstanding Leader Award |
| 2014 | Honoree, Top Women of Law – <i>Massachusetts Lawyers Weekly</i> |

Areas of practice

My litigation defense practice is focused on complex product liability matters involving catastrophic injury and property damages, toxic substances litigation including asbestos matters, commercial contract and construction matters, medical device allegations, franchise and commercial disputes, consequential warranty claims, as well as matters of general liability against domestic and international manufacturers, distributors, and insurers. Additionally, I counsel numerous medical and technology start-ups on product labeling.

Employment history (Please do not include years)

Cornell & Gollub, Partner
Conn Kavanaugh Rosenthal Peisch & Ford LLP, Partner & Chair of the Product Liability Group

Noteworthy defense work

I have over 30 years of civil defense trial experience representing individuals, insureds, insurers, businesses, corporations, and product manufacturers in federal and state courts in Massachusetts, Connecticut, New Hampshire, and Maine. Highlights include:

- Won federal court jury trial, successfully defending manufacturer of plumbing products against allegations of negligent manufacturing and failure of warnings as cause of extensive water damages in high-rise residential property
- Won defense verdict following 3-week jury trial alleging multi-million dollars in commercial damages for alleged breach of contract, unfair business practices, and fraudulent interference with a business relationship.
- Won defense verdict in multiple wrongful death suit in 4-week jury trial presentation asserting correlation between fuel-fed fire and DOT's safety recall of engine throttle.

- Won defense judgment in first-in-the-nation civil trial alleging design defect allegations regarding vehicle's air bag system for manufacturer.
- Won defense verdict in two-month jury trial prosecuted by national plaintiffs' counsel alleging that a defective design and testing protocols of a door latch led to plaintiff's severe injury and permanent vegetative state.
- Obtained dismissal of action based on lack of personal jurisdiction for foreign manufacturer upon a finding that a lack of minimum contacts and lack of purposeful availment, upon a due process analysis, could subject corporation to appear in Massachusetts.
- Successfully argued that a lack of duty to the plaintiff and that employer's substantial modification to industrial laminating machinery was performed independently from manufacturer's instructions, not known or reasonably foreseeable to the manufacturer, created the hazard by which the employee sustained significant, debilitating hand injury, and was the superseding cause of the damages asserted.
- Successfully argued for limitation of expert testimony on issues of causation and design defect of medical device for a failure to provide necessary indicia of reliability and validity of opinions or qualifications, leading to substantial reduction of demand and nuisance value settlement on the eve of trial.
- Obtained summary judgment for manufacturer of automatic gate for plaintiff's failure to present elements of claim as a matter of law and determination that danger of "open and obvious."
- Obtained dismissal of action for plaintiff's failure to establish that a foreign corporation conducted business or had a presence in Massachusetts, or that any contacts with the state would satisfy Constitutional due process requirements. In subsequent appeal, successfully argued that plaintiff had failed to adhere to appellate procedural requirements, resulting in dismissal of appeal
- Obtained dismissal of action and cross-claims for a failure to state a cause of action, where plaintiff's identified claims and allegations were proven to be barred by the principles of *res judicata*.
- Obtained dismissal of Complaint against aircraft component manufacturer for a lack of personal jurisdiction, where company was found to regularly solicit business in the Commonwealth but the assertion of general jurisdiction was found to offend the concept of Constitutional due process.
- For an automobile manufacturer, successfully resolved allegations of lack of crashworthiness and design defect allegations before judge during weeklong jury selection.
- Pursued dismissal of claims made against sales, maintenance, and manufacturing agents for a failure to join indispensable parties upon a claim for breach of contract resulting from golf course owner's default and anticipatory repudiation of lease agreements.
- Obtained federal injunction and monetary sanctions for infringement of trademark and trade name.
- Partial summary judgment entered on grounds of preemption under the CPSC's Federal Hazardous Substances Act.

- Obtained summary judgment for Korean affiliate corporation on grounds that the company did not accept successor liability nor was an agent for the conduct of business in the Commonwealth.
- Obtained exclusion of plaintiff's expert for failure to establish an adequate factual foundation for opinion.
- Obtained summary judgment upon franchisees claims that termination constituted a breach of contract, breach of implied covenant of good faith and fair dealing, as well as violations of the Connecticut Franchise Act and Connecticut Unfair Trade Practices Act.
- Obtained partial exclusion of opinions by plaintiff's expert for lack of necessary qualifications in order to offer expert testimony on design issues.
- Successfully argued in favor of summary judgment on plaintiff's claims of a product defect on grounds of inadequate and insufficient expert opinions in Daubert challenge to expert witness, and due to unsubstantiated delay in expert disclosures.
- Summary judgment granted on Connecticut Unfair Trade Practices Act claims on statute of limitations grounds, and failure to establish applicability of course of conduct and fraudulent concealment pursuant to applicable tolling doctrine.
- Within a statutory product liability action, successfully pursued third-party claim for common-law indemnification against component manufacturer of fishing boat steering wheel.
- Obtained award of summary judgment upon a finding of express preemption of plaintiff's state law damages claim pursuant to EPA's FIFRA provisions.
- Successfully argued for the exclusion of plaintiff's expert testimony and entry of summary judgment for failure to adequately support expert scientific opinions and failure to demonstrate causation.
- Awarded partial summary judgment as to state court claims of a defect in the design of vehicle's air bag system upon holding that the National Traffic & Motor Vehicle Safety Act impliedly preempted claim.

Professional affiliations

Massachusetts State Bar (1990)
 Connecticut State Bar (1991)
 Product Liability Advisory Council (PLAC)
 International Association of Defense Counsel (IADC)
 Federation of Defense & Corporate Counsel (FDCC)
 Massachusetts Defense Lawyers Association
 Massachusetts Bar Association
 Boston Bar Association
 Women's Bar Association of Massachusetts

Have you been a DRI member for 5 or more years? YES, since 1997

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

Leadership Positions and Committee Memberships:

DRI

Member-at-Large, National Membership Committee (2014-17)
- re-appointed by DRI Presidents, John Parker Sweeney and Laura Proctor
Nominating Committee (2021)

Women in the Law Committee

- Chair of the Committee (2020-Present)
- Vice-Chair of the Committee (2019-2020)
- Seminar Chair (2018-2019)
- Vice-chair, Seminar (2017-2018)
- Chair, Seminar marketing (2016-2017)
- Vice-chair, Seminar marketing (2015-2016)
- Steering Committee, Seminar planning (2014-Present)
- Law Practice Management Liaison (2014-2015)
- Chair, Networking sub-committee (2013-2016)
- Steering Member, Webinar sub-committee (2012-2014)
- Massachusetts State Liaison (2012-2015)
- Member, Marketing sub-committee (2011-2015)
- Vice-chair, Networking sub-committee (2011-2013)

Products Liability Committee

Biomechanics & Injury Causation SLG

- Chair (2016-2018)
- Vice-Chair (2014-2016)
- Marketing liaison (2013-2014)

Automotive SLG

- Steering Committee (2013-Present)
- Seminar Planning Committee (2014-Present)

Recreational Products SLG

Children's Products SLG

Drug and Medical Device Committee

Awards:

2021 - 2022 DRI Exceptional Performance Citation, for work as MassDLA President
2015 WITL Outstanding Leader Award

Presentations:

- Speaker & Author, “Safety Concerns with Right to Repair Legislation, Litigation, and Federal Regulation,” DRI Product Liability Conference, Las Vegas (February 3, 2022) (main stage)
- Moderator, “Identifying and Developing Tomorrow’s Trial Lawyer,” DRI Product Liability Conference, San Diego (February 8, 2018) (main stage)
- Speaker, “The Perfect Pitch: Ethical Conundrums and Possible Missteps in Landing and Maintaining Clients,” DRI Annual Meeting, Boston (October 19, 2016) (break-out)
- Speaker, “Rule 26 Expert Discovery: The Privileges Afforded to Attorney/Expert Communications,” DRI, Product Liability Conference, Phoenix (April 10, 2014) (break-out)

Publications:

- *I Might be Busy, Sometimes Frustrated or Exhausted, but I am NOT Distracted: A Response*, For the Defense (August 2021)
- *From the Chair: The Hive*, Committee Newsletter (Summer 2021)
- *In-House Counsel Perspectives*, Committee Newsletter (Spring 2021)
- *Continuing Her Fight for Diversity and Equity*, For the Defense (January 2021)
- *From the Chair: Ruthless*, Committee Newsletter (Winter 2020)
- *From the Chair: Pandemic Edition*, Committee Newsletter (Fall 2020)
- *From the Chair: A Racial Reckoning*, Committee Newsletter (Summer 2020)
- Co-Author, *Women Rainmakers – Roadmap to Success*, DRI (2014)
- Chapter, “Maintaining the Rain: It’s Not Over Yet.” Contributing author to publication providing advice for career and business development skills, based upon interviews with successful women rainmakers and in-house counsel to tap into tried and true business development techniques and successful rainmaking tips.
- Author, “Are We There Yet: Taking Three Steps Down the Road Toward Gender Equality”, For The Defense, DRI, November 2011, Vol. 53, No. 11
- Co-Author, “When Plaintiff Knew (or should have known) the Risks – Application of the Sophisticated User Defense,” Trucking Law Committee In Transit Newsletter, DRI (Spring 2010)

List any leadership roles in other defense organizations.

MassDLA

President (2021-2022)
Vice-President (2020-2021)
Secretary (2019-2020)
Treasurer (2018-2019)
Member, Board of Directors (2015-present)
Vice-chair, Product Liability Committee (2013-2015)

As an officer, then President, of MassDLA, I was asked to serve on the Massachusetts Supreme Judicial Court's Standing Committee on Lawyer Well-Being. The Standing Committee is currently finalizing a comprehensive, practical resource for legal organizations to identify, address, and respond to racial and gender disparities and discrimination, mental health concerns, and impediments to overall personal well-being. The final report will identify early stage, intermediate stage, and advanced stage strategies for improvement, within five separate environments – Large Firm, Mid-Sized Firm, Small Firm, Government/Non-Profit organizations, and Corporate Legal Departments.

The goal of the Standing Committee is to provide meaningful, transparent, and actionable steps for the Chief Judge of the SJC to recommend to members of the Massachusetts Bar. This multi-year undertaking has provided me with substantial insights about how firms and organizations approach diversity and overall lawyer well-being that I will carry with me. I am immensely grateful for the opportunity to work on the project with, initially, Chief Judge Ralph Gants and now Chief Judge Kimberly Budd.

FDCC

Products Liability

- Vice-Chair (2021- Present)

Trial Tactics, Practice & Procedures

Drug, Device, and Biotechnology

Toxic Tort and Environmental Law

Transportation Law

- Vice-Chair (2019-Present)

Professional Women's Forum

Local Meetings Project

IADC

Member, CLE Steering Committee

Trial Techniques & Tactics Committee

Products Liability Committee

WBA

Vice-President – Operations (2016-2018)

Treasurer (2014-2016)

Re-elected Member, Board of Directors (2013-2018)

Chair, Business Development Committee (2009-2017)

Director, Women's Leadership Initiative (2015-16; Mentor, 2013-2015)

Steering Committee, Suffolk Univ. Law School Leadership Academy (2012-2013)

Elected Member, Nominating Committee (2013)

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

I have been a member of DRI for most of my career. That membership has formed the backbone of my organizational involvement to connect with clients, expand my network, enhance my practice, and develop personal friendships that are deeply important to me. In my opinion, younger lawyers advancing within their careers have not always recognized the value and important role that industry organizations such as DRI can play in their professional lives. I believe it is critically important to introduce up and coming attorneys to the advantages of actively maintaining professional networks to ensure a well informed and vibrant defense bar.

Even before the pandemic, membership in traditional professional organizations and institutions was diminishing. During my time in SLC leadership positions within DRI and as recent President of the Massachusetts Defense Lawyers Association, I have searched for ways to improve the relevance of a defense lawyers' organization to its members, especially younger members, as that trend became clear. If I have the privilege of being elected as a National Director, I will continue to explore those strategies and work to create a better engaged and active membership roster. I would look forward to the opportunity to collaborate with other members of the Board to further that goal.

I see 3 important elements that must be addressed to continue DRI's growth strategy: 1) engagement; 2) belonging; and 3) CLE excellence, legal resources, and legislative policy support.

Engagement –

Each DRI member should be aligned with a Substantive Law Committee or other specific aspect of the organization. I understand that many DRI members are not affiliated with any specific SLC, which is concerning. Committees are the heart of DRI engagement. A good starting point to engage all members is to identify 'non-affiliated' members to see where they would best fit. That smaller group involvement allows for direct communication and engagement with members. But, what does SLC 'engagement' mean?

Engagement in CLE content means that the programming is relevant, cutting-edge, practical, and useful to the everyday practice of committee members. The CLE content available also should be in the form of in-person seminars, webinars, podcasts, and virtual meetings. We want to meet members where they are – at the office, at home, or on the go.

Engagement in non-CLE content provides the opportunity to participate in non-substantive presentations, networking, DRI Cares, DRI for Life, and other concepts. Those are personal connections in less formal settings.

While it might be a bit unorthodox to provide attachments to this declaration, I am submitting two documents here – a Networking News column from March 2014 that I developed as the new Chair of the Networking subcommittee of WITL; and a Sharing Success newsletter from 2020 that I developed as the new Chair of WITL.

These publications, from my early days in those roles, are examples of long-standing belief in the need to engage. What is happening in the committee? Who else is a member? What connections and learning opportunities are there? There should be no mystery about what activities are going on, the members involved, the identity of leaders, the ability to participate.

Belonging –

My significant experience and involvement in Diversity, Equity, and Inclusion (DEI) initiatives have taught me the importance of *belonging* – it’s not just being **at** the party, its **being asked** to dance, as is a common refrain. What does that mean when it comes to DRI membership?

In addition to being engaged by learning about committee activities, attending CLE, getting to know other committee members, “belonging” in a legal organization means believing that you are a valued member of the group. You have a role and a purpose. Some members will have a lot of time to give, and some will have very little time in their schedule. We need to value whatever contributions they can offer and make them feel a part of the whole.

An emphasis on creating a culture of ‘belonging’ is particularly critical for the continued engagement of young lawyers. First, they need to see the value of engagement in a legal organization that can be viewed as an “additional” facet to their work responsibilities rather than a supplement that can make their careers easier to manage and be more productive. Second, the members who are ‘aging out’ of the YLC (often with leadership roles and responsibilities in that group) need to find acceptance and value in a SLC committee with well-established members.

DRI members will want to advance in their careers, hone their substantive knowledge, gain exposure through contributing to publications, speaking, and leadership opportunities, while building a network of clients and referral sources – but the personal connections and sense of belonging within the organization is the glue that binds the organization and keeps members active.

Law firms and organizations face constraints on spending and travel expenses, especially in recent years. When someone considers attending an in-person event or virtual CLE, they will likely need to make a pitch to law firm management for approval. There should be no question about the benefit and value of attending any event or CLE opportunity – and that ability to ‘sell’ attendance at a DRI program comes from the member’s knowledge of the organization, the people, and the benefits that await them. DRI makes lawyers and their firms better, and members with active engagement and ‘belonging’ in a committee are well-positioned to articulate those benefits.

As previously mentioned, I was invited to serve on the Massachusetts Supreme Judicial Court’s Standing Committee on Lawyer Well-Being. The SJC issued a survey to all members of the Massachusetts Bar on the state of the legal practice. The confidential working group discussions that I have participated in as we examined that survey data have been sobering. I have a far more profound understanding of racial and gender disparities and discrimination, mental health concerns, and impediments to overall well-being that are felt by many in our profession. The report, to be finalized by the end of this year, gives awareness to challenges that attorneys face and

actionable steps that organizations can take to respond to those issues. I am eager to see the implementation of some of our recommendations and to work on those efforts.

CLE Excellence, Legal Resources & Legislative Policy Support –

There is no doubt that a core mission of DRI must be its top-notch CLE, legal resources, and engagement in legislative initiatives that bring fair policies to the business clients that we represent.

At conferences, the industry information and legal updates offered in the presentations are necessary both to meet CLE requirements and for practitioners to maintain a level of competence in their fields. The extensive publications, Expert Database, *LegalPoint*, and education to the appellate judiciary by the NFJE are just some examples of the valuable resources available through DRI. In the legislative arena, our business clients need to see DRI in action in defense of reason-based litigation policies. In my opinion, DRI should do more to showcase the Center's white papers, testimony to Congress on possible rules changes, amicus briefs, the DRI Protect and Serve Task Force, and other advocacy projects. By engaging members and encouraging their active participation in substantive initiatives, DRI can enhance its position as a leading advocate for the defense bar.

SLDO collaboration –

While I have highlighted 3 important elements that I believe will maintain a thriving organization, I also need to reference the role of collaboration with the SLDOs in each of those elements.

My involvement and leadership in MassDLA, including recently as President, have shown me the importance of working together with local defense organizations. Fortunately for me, DRI and MassDLA have maintained strong ties and fully support one another, which helped make collaboration seamless over the years. Collaborations such as these make it easier to establish defense bar connections in every state. I look forward to the opportunity to further link DRI's vast resources with state defense organizations across the country.

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

Our clients rely on the courts to provide a platform to bring and resolve controversies both large and small. A bedrock requirement of that platform is a societal view that the courts are essentially fair and impartial. Unfortunately, trust and deference to the system has been eroding in recent years – and I fear that recent U.S. Supreme Court rulings will further promote the view that the judicial branch is just another political body.

More specific to the defense bar, two important, intertwined issues that need to be confronted are the commoditization of attorney work product and the continuing decline in the number of jury trials. If cases are won and lost in discovery and the focus of a case is to reach an “acceptable” settlement, what special skills do lawyers bring to the dispute?

I see a vital role for the work of the Jury Preservation Task Force through the Center for Law and Public Policy as well as the dedicated seminar presentations, webinars, and articles that DRI provides to identify the problem and develop skills-based offerings to help continue to support the defense bar and the businesses that it represents.

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

The role of DRI is multi-faceted. DRI must continue to be the ‘go-to’ source for broad-based information on the defense of business – CLE, networking, on-demand presentations. The activities of the Center for Law and Policy should be elevated and profiled within the organization and across the broad legal landscape. The work that they do brings specific, added value to the defense bar and for each business entity that we represent. Our organization must continue to be the strongest voice of the business community and the defense bar on matters of law and policy.

DRI also must be an organizational “home” for defense attorneys – those who desire to advance their careers through substantive expertise, skills-based training, publication and speaking opportunities, and roles in leadership. The massive technology shift that we have seen during the pandemic allows DRI to reach its members in-person and across multiple platforms. There are exciting opportunities for DRI to make membership connections in this new environment.

As an example, I helped plan the WITL 2021 seminar, which was held virtually but included wine tasting, coffee making tips and tricks, trivia games, and a “Gripe Session” about the pandemic. We also developed a Spotify ‘bad ass women’ playlist, connected through a robust GroupMe text group for all attendees, learned meditation techniques, and had a role-playing murder mystery game that had everyone laughing. (I still get ribbed for being the flesh-eating zombie killer at the end of that game.) After hours on Zoom, no one wanted to leave. We stayed on, chatted, shared COVID nightmare stories, and had a true time of bonding. We outlasted all of the DRI staff who were hosting the virtual platform, but I am still in touch with a couple of the people I met only on-line during that April 2021 seminar. Many other attendees are too.

Each committee – their members and their enthusiasm for some off-topic fun activities at a seminar – will vary. Working with and evaluating those options are needed on a committee-by-committee basis, but ultimately those connections, both substantive and personal, are the “Engagement” and “Belonging” that will keep DRI a thriving, active organization.

The practice of law is a serious, measured profession. Rules of ethics, a client’s litigation needs and business interests, firm or company responsibilities among many other obligations keep us focused and dedicated beyond business hours. DRI needs to be attuned to all possible means to create a collaborative, engaged membership and to fulfill not only the substantive, educational needs of the professional, but also foster a sense of belonging that brings members back together year after year.

WITL Committee / Networking Sub-committee

Networking News

March 2014

Networking News ...

The Women in the Law committee is continuing to increase its regional and seminar networking events. Take a look at events so far!

Local Networking Events

The members of WITL have put the local networking initiative into full swing with several wonderful events.

Heather Bub of *SmithAmundsen LLC* pulled in sponsors and enjoyed a good turnout at an event for the DRI women of **GREATER ST. LOUIS**. Everyone enjoyed drinks and appetizers at Bar Napoli – rumor has it, the ladies had a long night of networking and laughs.

To help get **SAN FRANCISCO** in shape for the influx of DRI members for the Annual Meeting, **Holiday Powell** of *Morris Polich & Purdy LLP* developed an enjoyable event on September 25th at a Schroeder's Restaurant. The cocktail networking event was well-attended, and all the smiles gave proof that everyone enjoyed themselves.

In October, **Lauren Nuffort** and **Lisa Griebe** of *Terhaar, Archibald Pfefferle & Griebel, LLP* and **Angela Browning** of *Litigation Management, Inc.* joined together for a wine bar in coordination with DRI's SLDO, the Minnesota Defense Lawyers Association to toast the terrific DRI women of **MINNEAPOLIS**. They had a great turnout to enjoy cocktails and appetizers and networking.

A busy Fall of networking also included a **CHICAGO** event organized by **Violet Clark** of *Laner Muchin, Ltd.* and **Stacy Fulco** of *Cremer Spina*. These fabulous members developed a charitable networking program to benefit Clara's House, a non-profit shelter for women. The event collected donations and supplies for the organization. A fun time was had by all, while helping out a very worthy cause.

Claudia Baio of *Howard Kohn Sprague & Fitzgerald* created a fun and relaxing event in **HARTFORD**. All of the attendees of the Wine and Wellness Happy Hour enjoyed the unique networking event that brought them together for wine, appetizers, and a sampling of wonderful wellness services.

Kicking off 2015 on just the right note, **Tamera Westerberg** of *Wheeler Trigg O'Donnell*, **Julie Walker** of *Kelly & Walker*, and **Gillian Dale** of *Hall & Evans*, hosted a networking event in **DENVER** during early January. A large group of local DRI members along with guests from the Colorado Defense Lawyers Association gathered for drinks and appetizers and enjoyed meeting each other and connecting old friends.

Marie Chafe of *Cornell & Gollub* hosted the first inaugural **WITL-Boston networking event** on June 10th to a roaring success. More than 80 women gathered to connect, network, and shake off the last flakes of snow after a really tough winter. Everyone enjoyed the chance for DRI and MassDLA friends to re-connect and to strengthen and broaden connections with other defense

counsel. As one attendee put it – “the energy, commitment, and value of DRI’s women in the law must be witnessed firsthand to be believed!”

Even more local networking events are being planned in New Orleans, New York, Indianapolis, Richmond, and Houston. Please join a regional networking event near you!

Seminar Networking Events

Dozens of women enjoyed the WITL reception in early September at the **Construction Law** seminar in San Diego. Aside from the compelling (and unforgettable) presentations related to the Station night club fire litigation and other substantive topics, the women of the committee had time to enjoy each other's company and get to meet new faces. The fun event was capped off with a raffle for a Kate Spade bag. **Stephanie Roberts** of *Spilman Thomas & Battle* helped to circulate information about WITL.

Women attending the **DRI Nursing Home/ALF Litigation** seminar in October enjoyed a dinner together organized by **Angela Browning** of *Litigation Management, Inc.* A large group turned-out to enjoy dinner and conversation at III Forks Chicago, a modern steakhouse sizzling with style.

We are grateful to **Rebecca Nickelson** of *HelperBroom LLC* for hosting an enjoyable breakfast during the **Asbestos Medicine** seminar in San Francisco during November. Another large group turned-out for this popular annual event.

Katie Bryan of *LeClair Ryan* meticulously organized a networking lunch for the **Complex Medicine** seminar in San Diego. A great group came together to enjoy a fun lunch, conversation, and the chance to get to know one another.

Not to be outdone, **Laurie Miller** of *Jackson Kelly* was host to a fun group during the **Civil Rights & Governmental Tort Liability Seminar** in January. About 30 attendees took the opportunity to network with one another during the lunch event at La Puerta restaurant. According to the group, the lunch was at a Great Location and Yummy Food. It’s hard to go wrong with a great group of women taking over a place voted “Best Mexican” food in San Diego!

Marie E. Chafe of *Cornell & Gollub* and **Heather Bub** of *SmithAmundsen LLC* hosted a wonderful lunch event at the Wicked Spoon during the Product Liability conference in February. For another year, the event drew a strong crowd of 67 women, who enjoyed the opportunity to network and enjoy a buffet-style lunch the way only a restaurant in Las Vegas can do! We also had the privilege of networking with CPSC Commissioner Joseph Morohovic to answer questions and provide insight about his agencies practices and current activities.

Are you interested in hosting a WITL networking event in your area? Want to meet some of the women attending your next DRI conference? Have you made or received a referral to a WITL member or through the WITL listserv? Have some exciting news to share? Let us know! We would love to include your success story in the next WITL publication.

Referrals!

How do you spell referral? W-I-T-L! One of the great advantages of WITL membership is the ability to refer business to each other. We love to hear news that **Kim Hardeman** of *Lederer Weston Craig PLC* in Cedar Rapids recently received a referral in an employment matter from another WITL member. Also, another WITL member sent a personal injury case referral to **Melissa Lin** of the *Righi Law Group* in Phoenix. Thanks to a fellow WITL member, **Julie Walker** of *Kelly & Walker LLC* in Denver got a referral for a product liability case for a major US company.

Congratulations!

Members of *Miller & Martin PLLC* in Atlanta elected **Eileen Hintz Rumfelt** to membership in the firm. Eileen concentrates her practice in the area of complex commercial litigation, including white-collar crime and corporate investigations and intellectual property matters. She also is a member of the firm's Crisis Management Practice Group.

Lydia Hu of *Tydings & Rosenberg LLP* in Baltimore is a recipient of The Daily Record Leading Women Award for 2013, honoring 50 women under the age of 40 for significant professional accomplishments. The Award recognizes the next generation of Maryland's women leaders.

On January 1, 2014, **Alison R. Christian** was promoted to Shareholder at *Christian Dichter & Sluga* in Phoenix. Ms. Christian is a co-founder of the "Ladder Down" business development program for women lawyers and her practice focuses on insurance law and bad-faith litigation.

In January 2014, *Segal McCambridge Singer & Mahoney* promoted four new shareholders and two new equity shareholders to its partnership. The incoming shareholder class includes **Nancy S. Woodworth** (Chicago) and **Susan E. Smith** (Baltimore) who represents the firm's purposeful inclusion of women in leadership. Nancy concentrates her practice on complex mass tort litigation involving products, premises, and contractor liability claims, and actively litigates toxic tort cases throughout the Midwest. Susan defends and tries complex litigation matters in the hospitality, retail, and housing industries, with additional experience defending product defect claims and other general liability matters.

Shareholder **Catherine Goldhaber** of *Segal McCambridge Singer & Mahoney* in Chicago was selected as one of seventeen women attorneys featured in *Chicago Lawyer* magazine's 2013 edition of *Women in Law*. Honorees are chosen in recognition of achievements in their practice, dedication to the profession, and commitment to community. This year, Ms. Goldhaber and her fellow honorees were selected from more than 200 nominees.

Stacy L. Moon of *F&B Law Firm, P.C.* in Huntsville, Alabama had a busy winter with three jury trials in federal court, two for illegal search, illegal arrest, and excessive force, and the third for illegal arrest and excessive force, in violation of the 4th and 14th Amendments. Great results were achieved in each! She can be reached at some new contacts – smoon@fb-pc.com or www.fb-pc.com.

Jennine A. Gerrard of *Morelli, Gerrard & Lassalle, LLP* of New York City, an all women and minority-owned firm, announces and celebrates the firm's first anniversary in January 2014. Within six months of forming, the firm made the New York Law Journal's list of Top 100 Largest Women-owned firms and Top 100 Largest Minority-owned firms in New York State! The firm celebrated its success by "adopting" a 5th grade class in the Bronx. Firm members spent the day with the class, singing, dancing, and enjoying an amazing bunch of talented kids. All of the kids received a Christmas bag with a new sweater, jeans, mittens, hat, and gloves.



We've Moved!

Erica M. Fisher and **Janet L. Hickson** recently moved to *Shook, Hardy & Bacon* in Irvine, California. Their new contact information is EFisher@shb.com, direct (949) 975.1731 and JHickson@shb.com, direct (949) 975.1730, respectively.

New Arrivals!

Abigail C. Varga of *Lambert Coffin* of Portland, Maine and her husband welcomed Parker James Varga into their family on October 19, 2013.

Are you interested in hosting a WITL networking event in your area? Want to meet some of the women attending your next DRI conference? Have you made or received a referral to a WITL member or through the WITL listserv? Have some exciting news to share? Let us know! We would love to include your success story in the next WITL publication.

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WITL Committee
Sharing Success Newsletter
June 2020



Sharing Success

The newsletter of the
Women in the Law Committee

6/25/2020

Volume 10 Issue 1

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Leadership Notes

From the Chair

By Marie Chafe



Our fabulous Women in the Law Committee has been an important and meaningful part of my life for many years. I was thrilled to move into the position of Committee Chair just a few short months ago, with many ideas and plans for the committee to focus on a theme: Own Your Value. My goal was to get us all talking and thinking about what that means, as well as a challenge for everyone to improve their ‘value’ to yourself, your family, your clients, and your community. Then, the world changed, and what we value has taken on a sudden and dramatic new meanings.

To my friends and colleagues within my favorite “Big Tent” DRI committee, I must start with my personal reflections on the heartbreaking scenes and revelations surrounding policing and policies that unfairly disadvantage the black community of this country. I have lived most of my life in the liberal enclaves of the Northeast, without the physical reminders of the Confederacy that may be found in other parts of the country and with a belief that society was on a path (although slowly) towards equality for all. And, with a deep-seated faith that the fundamental core of society is moving in the right direction.

The last few years have shown serious divisiveness in our country. My own multi-racial, multi-ethnic family has not been immune from both subtle and not-so-subtle forms of discrimination. Nonetheless, what I have seen and heard both from the news and in conversations with family and friends across the country in the last several weeks has been a shocking wake-up call to the serious crisis and turmoil that faces many in our country.

Last week, I took part in a Black Lives Matter protest in the neighboring town of Concord, Massachusetts – where the early colonists marched on Old North Bridge and began a revolt that led to the creation of this country. It was not lost on anyone there that nearly 250 years later, an impassioned gathering was again speaking up and hoping to create a movement towards a better future. As a committee, WITL has intentionally made diversity and inclusion a core part of our mission, knowing that achieving equality in the legal profession is intricately connected to ending fairness and injustice in the greater society – but we can always do better. Racism is unacceptable in all its forms. Because many of us do not appreciate the extent

to which such discrimination continues to exist, we need to listen, discuss, and learn about the experiences of the black community, in order to move forward towards the creation of a better country. I personally commit to working to continue those discussions within our committee, so that we can use our collective strong voices to inspire our profession, to take bold actions, and to do our part to create a more just society.

This critically important moment of cultural change has risen just as the coronavirus pandemic has upended “normal” life. The phrases “social distancing,” “don’t touch your face,” “wash your hands (a lot) while singing Happy Birthday (twice),” “face mask protocols,” “Zoom,” and “what day or month is it anyways?” were not part our everyday conversation until just a few months ago.

However, this health crisis has led to many unexpected things – an appreciation of the medical profession’s brave efforts to save us, the economic and practical challenges of running a legal firm, the business upheaval experienced by our clients, and the logistical hurdles of everyone working at home.

With a set of dual crises now simultaneously impacting us, how can we look at these events through the lens of WITL’s theme? In this environment, what does it mean to own your value and how can WITL provide increased value to you?

First, it must be personal. For you and your family—let’s remember that the upheaval and uncertainty is real. None of us have experienced a sudden halt to business as usual before or observed a national uprising in the face of racial injustice—at least not at the same time. We are all navigating how to pivot to new work routines and to confront uncomfortable realities. Everyone is figuring it out in real time, with many of us experiencing immense grief and financial calamity. If you are having a hard time juggling everything, give yourself a break. The stress felt by everyone is immense. Feel grateful for what you do have—whether it is working remotely, getting outside more, embracing connections through technology, or a chance to focus on the family members around you that you value. And, reach out to your fellow WITL committee members and friends. We too may be facing similar issues

and we can help each other develop solutions and coping mechanisms—or just provide a safe space to vent!

Your law firm or company and your clients might look very different now. Try to use this time to think about how to provide value to them in a way that is probably very different from a few months ago. Your corporate clients are almost certainly struggling in this new business environment. What can you do to help them value you and your continuing work for them? Can you provide valuable insights about the newly-created government programs, advice for addressing employer concerns as we begin to return to the office, or pro-actively address budgeting and priority handling of your matters? How can the members of this Committee help each other to develop value for our clients? DRI is working to develop timely and useful on-line programming to help its members, and I hope that the wonderful WITL community can be a resource for its members too.

Your WITL community is here for you. Since its inception, the committee has provided a forum and resources for women lawyers and even in the middle of a cultural, economic, and health crisis. The relationships within WITL can be some of the best sources of support for you now. I am committed to offering presentations, social connections, and publication opportunities to help each of you get the most value from your membership in this committee. We also are looking ahead to our annual seminar, set for January 20–22, 2021, at the Fairmont Hotel in San Francisco. Our program chair, Meade Hartfield, and program vice chair, Jennifer Nutter, have developed the program with our seminar planning committee. Mark your calendars now

and look forward to a time that we can (safely) gather again.

I hope that everyone is a part of the DRI Community Pages, an informal site for posting questions, ideas, or topics of interest. Let's keep talking and stay connected through that forum. I also hope that you can take advantage of some of the on-point webinars and on-line programming that DRI and their membership are working hard to create. We need your ideas and energy to identify what else we can do to provide value to our members.

I want our incredible WITL community to continue to be a resource for you, and I want to hear from you. We are all in this together, and I encourage each of you to tell me what I, and this wonderful Committee, can do to help through this time of uncertainty. I wish everyone health, moments of personal calm, and professional stability to get through this time. Be well and stay in touch, my friends!

Marie E. Chafe is a partner at Cornell & Gollub in Boston. She is an experienced litigator and first chair trial lawyer representing local, national, and international manufacturers and distributors of automobiles, motorcycles, recreational vehicles, medical devices, consumer products, and construction equipment. In addition to complex product liability matters, Ms. Chafe has significant experience in commercial litigation, toxic tort actions, catastrophic personal injury, and wrongful death lawsuits in the federal and state courts throughout New England. In addition to her service on the DRI Women in the Law Committee, she is an active member of the DRI Product Liability Committee.

From the Editor

By Sarah Thomas Pagels



It seems like I have lived through at least 365 days, made 7000 meals (and done at least as many dishes), and have gotten 10,000 emails about new or modified safety protocols or court procedures since mid-March. I have also been filled with despair at the injustice and unfairness and unnecessary death suffered by the black members of our communities from police brutality and horrified at the continued level of divisiveness that is still fully present in this country. But I am also hopeful for our future. While there is much hard work to be done, I have been heartened by stories of

those that have acknowledged their mistakes and committed to rolling up their sleeves, spending time listening and learning, and using our collective time and talents to work together to create critical, meaningful and lasting change in our communities, our law firms, and our companies. Perhaps many of you are feeling the same way. I don't know about you, but I am so grateful for the incredible DRI community during this time of crisis, civil unrest and economic challenges. Hearing your voices on telephone conferences, seeing your faces on Zoom during committee meetings, and even reading your articles and emails in my inbox has

brought me comfort and joy during this challenging time. I hope after reading this issue, you will feel some of this too—it is too good not to share.

First, no Spring issue of the WITL newsletter would be complete without reflecting on what now seems a lifetime ago—our wonderful seminar in January of 2020 in sunny Scottsdale Arizona. Allison Laffey, a first-time WITL Seminar attendee, shares her thoughts on that spectacular event. One of my favorite events of the seminar is always the Awards Luncheon—this year was particularly special as the Mary Massaron Award was presented to four truly inspiring women leaders of the four “sister” defense organizations—Emily Coughlin, Lori Berke, Elizabeth Lorell, and Amy Fischer. I hope you also enjoy the photos shared of our time together before social distancing was a thing and shared food was not yet verboten. And don’t miss the Member Spotlight featuring our incredible Activities Chair, Bethany White - she has great ideas up her sleeves for all of us no matter what the 2021 WITL Seminar looks like. The triple threat team of Kristen Dennison, Stephanie Holcombe, and Bridget Harris also generously share some of the stories and advice shared during our Sister Tribe breakout session in “Better Together.”

Many of our feature articles in this issue fit a common theme—we recognize the unprecedented times we are living (and practicing law) in. You will not want to miss Bridget Grimes’ financial tips, Laurie Miller’s tips for keeping everyone busy, and Jennifer Morris Jones’ article about best practices for remote work. And, rainmaker and new DRI Executive Vice President for Growth, Strategy & Branding, Wendy Merrill, shares practical advice on how each of us can make a positive and lasting impression on our clients in the midst of crisis.

And, not everything in this issue is about navigating through crisis. This committee still has lots of insights to share that will have us ready to go when our courts and our offices (safely) reopen—check out Amanda Cialkowski’s

article about managing social media and internet activities by your jury and Natalie Baker Reis’ article about best practicing for retaining experts. Rena Cook also shares her thoughts with us about how to use our voices to be truly heard when we are back in the courtroom or in depositions again.

Finally, it is both wonderful and necessary during times of crisis to celebrate others—even if we cannot be together in person. Our WITL Champion in this issue is none other than John Trimble, a man I consider a personal mentor and friend who is truly a champion for all women—but especially women in the legal profession. And last but definitely not least, we feature 3M’s Sandra Nowak in our In-House Counsel Spotlight. Her company’s efforts to incentivize and reward diversity in the legal profession and their current work on the frontlines of the global crisis is both noteworthy and worthy of celebrating as well.

I have been taking this time of remote working with no commuting to read some of the classics with my daughter in the evenings. We just read Louisa May Alcott’s *Little Women*. I leave you with this quote from that book, which has taken on new meaning for me in this time:

“Have regular hours for work and play; make each day both useful and pleasant, and prove that you understand the worth of time by employing it well. Then youth will bring few regrets, and life will become a beautiful success.”

Be well, all!

Sarah

Sarah E. Thomas Pagels is a partner at Laffey Leitner & Goode LLC in Milwaukee. Sarah has experience defending clients in all types of litigation, but focuses her practice on defending companies in general commercial matters, product liability and toxic tort matters, and professional malpractice claims.

2020 WITL SEMINAR IN REVIEW

A first-time attendee and self-identified "Blue with Green tendencies" looks back at some of the biggest moments of this year's seminar. Allison Laffey

Celebrating Our History and Looking Forward to Our Future

This year's seminar took attendees to The Scottsdale Resort at McCormick Ranch in sunny Scottsdale, Arizona for three days of networking with friends and colleagues, learning new skills and insights, and so much more.



Community Service Project:

On Wednesday, WITL helped prepare food boxes and homeless walking bags at the Vista Del Camino Food Bank, which will be distributed to Scottsdale residents and persons experiencing homelessness.

Programming Highlights

"Look before you leap"

- Logical
- Strategic
- Analytical
- Quality focused
- Factual perfectionist

"Let's work together"

Team oriented,
supportive, relationship
builder, helpful,
considerate, sensitive.

"Just do it"

Direct
Decisive
Practical
Results-oriented

"Make your own kind of music"

Fast Non-linear
Risk taker FUN
Dramatic
Creative Adventurer

Success Signals: Opening the Door to Getting More of What You Want by Rhonda Hilyer, Agreement Dynamics (February 2001)

We spent Wednesday afternoon exploring communication styles with Julie Hagen Showers as she led us all in the "Success Signals" interactive workshop where we learned:

- How to identify and understand our own communication styles;
- How to identify, understand and accept the communication styles of others; and
- How we can use this understanding to communicate more effectively in all aspects of our lives.



Keynote Address: We Didn't Start the Fire

Patricia Diaz Dennis took us on an inspiring journey Thursday morning, as she shared with us her thoughtful, candid reflections on and often-relatable anecdotes about her life experiences as an associate, presidential appointee, not-for-profit leader, wife, mother and more.



One Year Later: How In-House Counsel Have Moved the Needle

On Thursday afternoon we heard from a panel of counsel, both in-house and outside, about the results of their efforts to increase diversity in the legal field in the year since corporations sent the open letter to outside counsel calling on them to do just that.



Leveling the Playing Field

This Friday morning panel offered a unique perspective, informed by their experiences as female legal professionals working in the science, technology, and math fields, as they discussed the future of American innovation and the path forward for women in all occupations.



Authentic Rainmaking Strategies for Women Lawyers

We closed out the 2020 seminar on a high note with this interactive workshop focused on the unique challenges and opportunities frequently encountered by women attorneys in generating business. We had the opportunity to reflect on our own individual strengths and interests and to consider how we can utilize them to achieve our business-generation goals.



Congratulations to Lori V. Burke, Emily G. Coughlin, Elizabeth F. Lorell, and Amy Sherry Fischer for receiving the Mary Massaron Award for the Advancement of Women in the Legal Profession

Small-Group Breakouts

- Electric bike & Segway tour of Old Town Scottsdale
- Board Game Bonanza
- Book Club
- Trivia
- Mindfulness and Meditation



Thursday Evening Networking



Cooking class at the Classic Cooking Academy of Scottsdale



Bicycle City & Pub Tour



Private Dinner and Wine Tasting at Atlas Bistro



See you in San Francisco, CA
January 20-22 for the 2021 Women in the Law Seminar





Allison E. Laffey is an associate at Laffey, Leitner & Goode LLC with a practice emphasis in Products Liability, Transportation Law, and Commercial Law. Allison is co-chair of the WITL

DRI For Life Committee. Allison can be reached at alaffey@llgmke.com





Inspiration 2020

Four Sister Defense Organizations Led by Four Women

By Sarah Thomas Pagels



On January 23, 2020, DRI's Women in the Law Committee honored four very special women by awarding each of them the **Mary Massaron Award** in recognition of their outstanding service and leadership at the WITL Seminar in Scottsdale, Arizona. The four women honored were **Lori V. Berke, Elizabeth F. Lorell, Emily Coughlin, and Amy S. Fischer**. At the time of the presentation, each of these four women either currently lead or are poised to lead one of the four "sister" defense organizations during the year 2020: the Association of Defense Trial Attorneys (ADTA), the Federation of Defense and Corporate Counsel (FDCC), DRI, and the International Association of Defense Counsel (IADC).

The Mary Massaron Award is named after DRI Past President Mary Massaron. Recipients of the Mary Massaron Award are recognized for their work in the Advancement of Women in the Legal Profession. The award was created for a person who stands as an innovator and role model and one who has made significant efforts to advance women in the legal profession. It is presented annually to a DRI member or members who have demonstrated a high regard for diversity and a commitment to advocating the inclusion of promotion of women as well as fostering women's initiatives and actively promoting positive mentoring relationship with other women in the legal profession.

This year, the award was particularly special since it was presented during the year of the 100th anniversary of the 19th Amendment to the United States Constitution, which granted women the right to vote and to choose their elected leaders. It seemed a fitting tribute to the sacrifices made by those seeking enfranchisement 100 years ago that in 2020, for the first time in the four organizations history, that the elected leaders of all of these outstanding

defense organizations are women. The four honorees were each introduced by members of the DRI Women in the Law committee.

Emily Coughlin is DRI's President-Elect, who will be sworn in at the DRI Summit in October of 2020. Coughlin will be the fourth woman president in DRI's 60-year history. She is the founding partner of her law firm, Coughlin Betke LLP in Boston, with a win-loss record at trial that is enviable to many. As Diane Averell noted in her introduction of Coughlin for the award, "Emily lifts as she climbs, and her reach is broad, strong and deliberate." She has served as coach, mentor, sponsor, advisor, mentor and friend for many of the women sitting in the room at the Seminar.

Lori V. Berke is the President the ADTA. Berke is also



a founder and principal of the Berke law firm in Phoenix. Berke was elected the 70th President of the ADTA in April of 2019. As Laurie Miller noted in her introduction, throughout her career, Berke has paved the way for and been a supporter of other women in her firms and in the legal organizations to which she belongs. She has encouraged her female colleagues to become involved in these defense organizations and has supported them in seeking leadership roles and

in fulfilling their responsibilities in those leadership roles. Berke has been a great role model to other women as an accomplished lawyer and a respected leader.

Elizabeth Lorell is the President of FDCC. Lorell is a partner at Gordon Rees in their New Jersey, New York and Philadelphia Offices where she practices employment litigation, insurance coverage, professional liability and privacy and data security law. Laurie Miller noted that no one could do better to introduce Lorell's commitment to women professionals than one of her colleagues and fellow FDCC members. Lorell's fellow FDCC member and

friend of 25 years, Michael T. Glascott, shared that Lorell is a passionate leader who brought a “can-do” attitude to everything that she does particularly in the leadership roles she took on in the FDCC. Indeed, to Glascott it was no surprise that she was elected to a board position following her excellent work in the organization. In particular, Lorell is not afraid to volunteer for hard jobs, and to deviate from the way things have been done before and should keep things fresh for members. He said a quote from John Maxwell described her best: “The pessimist complains about the wind. The optimist expects it to change. The leader adjusts the sails.”

Amy Fischer was elected President of the IADC during the year it celebrated its 100th anniversary as an organization. Fischer has been practicing law at the same firm since she graduated from law school in Oklahoma City, Oklahoma, Foliart, Huff, Ottaway & Bottom. Her dedication to her firm, and to the IADC organization, was noted by all that participated in the nomination process when Amy was identified as a candidate to be the next IADC President. In her introduction, Sandy Wunderlich, who has worked with Amy in both DRI and IADC roles, noted: “If you know Amy, you know that she gives 110 percent to what she does. She is a tireless

worker, but more importantly, an incredible champion of diversity. As President, she chose a gay couple as her

Annual Meeting chairs, something that had never been done. She is a champion of all people, not just women, but especially women.”

Fischer’s partner, Larry Ottaway, noted that she has a knack of being indispensable in every way, even when juggling multiple professional and personal activities and it came as no surprise to him when she was elected as the President of IADC.

Each one of these four women took their own pathway but still found ways to lift others as they reached for their own personal and professional goals. Not only were the awards richly deserved, but their stories were inspiring to all persons (women and men alike) in the room.



Sarah E. Thomas Pagels is a partner at Laffey Leitner & Goode LLC in Milwaukee. Sarah has experience defending clients in all types of litigation, but focuses her practice on defending companies in general commercial matters, product liability and toxic tort matters, and professional malpractice claims.

WITL Member Spotlight

Bethany White



We are pleased to bring back a recurring feature in our newsletter – a member spotlight. This issue, we are featuring our Activities Chair, Bethany White.

Bethany N. White manages the workers’ compensation defense practice group at the Arnett Law Group LLC in Chicago. She also does general civil defense litigation, product liability, and some business litigation. She has been a DRI member since 2011, and joined on the recommendation of her partner. Fellow steering committee folks will recognize Bethany’s witty prose from in her role as Activities Chair for our beloved seminar.

How are you involved in DRI (What committee(s) do you serve/what leadership roles in DRI do you hold?)

I am very active in WITL, starting my third year as Activities Chair for the 2021 seminar (a position I love!). I’ve also served in other roles on WITL and been involved in seminar planning and marketing for the Litigation Skills Committee. I am also involved in the Workers’ Compensation Committee, although I hold no leadership positions on that committee currently.

What is a typical day like for you? [Both before and after March 16!]

I have two very young children (1 and 4), so my mornings start out pretty hectic as I try to get myself and both of them ready and out the door. Prior to March 16, I then headed to court or to the office and spend my day as most of us do – fighting with opposing counsel, updating clients, and building my cases. I usually leave the office in the early evening and am home for dinner and the nighttime routine with the kids. If I'm lucky, I manage to sneak in an hour or so of terrible TV before passing out from exhaustion. Since March 16, my mornings are much less hectic, but my days are spent juggling a lot more balls in the air. I've also enjoyed a significant amount more of terrible (and not terrible) TV.

What do you enjoy most about DRI?

The opportunity to meet like-minded attorneys from around the country. Most of my social circle does not work in the legal field so they have no idea what my career is like. It's been wonderful to meet so many other attorneys with whom I can commiserate and joke and share war stories. Wherever I go in the country, I know I can reach out to someone in my DRI network.

What is your best practice tip or what tip would you share with your younger self?

Try not to take everything personally. It took me a long time to realize that the attorneys on the other side, especially in litigation, are also just doing their job. Usually, the fights are not personal. If you take them personally, it's much harder on your client and on you and your mental health.

What is your favorite WITL memory/moment?

At the 2017 Annual Meeting, our law firm had an informal after party after the event at the Field Museum. It was great to have a smaller, very casual networking event with some of my favorite people from DRI.

Fun fact?

In the winter of 2011, after about six mojitos, I decided it would be a great idea to get a tattoo that night. I decided on “*je ne regrette rien*” (“I regret nothing” in French). Rather than a covered area, I figured the back of my neck was the best place for this tattoo. Instead of the lovely, small script chosen by the tattoo artist, I asked them to put it Courier New, easily size 16 or 18. So, the running joke is that I have no regrets, except that tattoo, making me the walking definition of irony.

What is your best WFH tip or videoconferencing story?

I don't have any fun videoconferencing stories, unfortunately. As for working from home tips, pandemic specific, I have two words: Baby. Jail. Okay, not really baby jail, but one of the best purchases I've made in years is a large gated play area. It gives my son an area large enough to play in so that he doesn't get bored or upset *and* allows me to focus on a task for more than 20 seconds before I have to grab him to stop him from eating dog food or breaking every electronic device in my home. Other than that, my tips are the usual: try to keep a routine but also be flexible, take breaks, and remember that having a drink earlier than normal is okay because pandemic rules are the same as airport rules.

Bethany White manages the workers' compensation department at the Arnett Law Group LLC in Chicago, Illinois. She now devotes her practice to defense of businesses and individuals in workers' compensation and civil cases in Illinois. In addition, she has defended corporations involved in multi-jurisdiction toxic tort litigation as well as served as outside general counsel. Outside of her practice, Ms. White is actively involved in the legal community, most notably serving in positions of leadership with the DRI. She lives in Chicago with her husband, daughter, and son.

Workplace Strategies

Band of Sisters

Better Together

By Kristen Dennison, Stephanie Holcombe, and Bridget Harris



Women in the legal profession experience a variety of environments in the workplace. At the 2020

Women in the Law Conference in sunny Scottsdale, Arizona, we led a panel to discuss how to move from toxic workplaces, where women knock each other down in competition, to a cooperative atmosphere, where women lean in together and collaborate in the workplace to lift as they rise. During this dialogue, we considered how generational differences can affect how women treat each other in the workplace. Through pointed questions and attendee contributions, the panel generated such a productive discussion we wanted to share it with all of DRI.

Competition

Q: How have you handled competition with women?

A: There are a variety of methods by which women handle competition with other women. Some women simply retreat within themselves and avoid confrontation and conflict. In some work environments, this may be noticed and appreciated as rising above the pettiness. Unfortunately, in many environments, this may lead to being overlooked for assignments and promotions. Other women address competition through leading by example, refusing to compete and instead showing cooperation with other women within their firms. But sometimes, if the environment is too toxic, it may be time to move on to a firm that promotes an environment of cooperation between women through the top levels that supports and promotes women at the highest level. Even if you can't find cooperation with women in the workplace, be sure to surround yourself with people outside of the workplace who will lift you up.



Q: Why do you think it's harder with women than men?

A: Traditionally, there have been fewer opportunities for women to rise to equity partner and management within their firms. As a result, some women may feel that, with limited spots, they have to rise at the expense of other women for those coveted opportunities. More and more firms are moving away from promoting that type of atmosphere. Clients are demanding that firms show diversity at the top levels. It is also easier for women to be more cooperative in those environments. Until the mold is broken across the legal profession, however, women may still face

this type of competition, breaking other women down instead of lifting them up.

Q: What can we do to break the pattern of competition among women?

A: Women must lead by example. Women can mentor less experienced female colleagues and help them become better lawyers, better rainmakers, and better businesswomen. Women can push for "women in the law" groups within their firms to promote collegiality. Firms can help by making sure that women are provided opportunities to become equity partners and have

a seat at the management table.

Generations

Q: Do you see generational differences in how women treat each other in the workplace?

A: Yes, and these differences are especially prevalent among those born from 1944-1979 (Baby Boomer and Gen X generations) and those born between 1980 and 2015 (Millennial and Gen Z generations). Specifically, many women in the Baby Boomer and Gen X generations discussed that firm culture was drastically more competitive

among women decades ago due to the limited number of leadership positions for women in firms across the Nation. With a lack of seats at the table for women, women felt the need to compete with one another to obtain the very limited positions which they were seeking. Now, according to women in the Millennial and Gen Z generations, women are seeing a positive shift in the level of competitiveness among women in the workplace. While competition is still there, a healthy competitive shift has taken place causing women to be the best they can be inside the four walls of their firms and elsewhere. For example, Melody Eagan, who is Lightfoot, Franklin & White, LLC's current managing partner, is the first woman to lead the firm in its history. Lightfoot's WOLF Pack (Women Of Lightfoot Franklin) is supportive of Melody and appreciative of her strong leadership. Women supporting women is a common theme in today's times, and will continue to be a common theme for years to come.

Q: Have you experienced differences as you have progressed through your career based on age?

A: Most certainly. A plethora of women expressed that the more seasoned one becomes, the more respect one receives in the courtroom from male counterparts and other attorneys in general. With age comes wisdom and with wisdom comes respect.

Q: What are some things you wish firms had implemented when you were climbing the partnership ranks that you could do for others?

A: While 51 percent of law school classes are women, only 19 percent of those women go on to make equity partner for a variety of reasons. It is safe to assume that one of those reasons is childbearing. Knowing this statistic, many women expressed their need for more realistic maternity leave programs, believe it or not. Attorneys in firm leadership positions should encourage management to implement maternity/paternity leave programs that benefit the next generation of hardworking attorneys choosing to have children. Many attorneys were enlightened and impressed that Lightfoot, Franklin & White, LLC implemented four months primary caretaker leave, formerly known as maternity leave, and two weeks non-primary caretaker leave, formerly known as paternity leave, in order to ensure that working mothers and fathers are receiving the support they need to work their way up through the partnership ranks. Many in the room were admirable of this time that a mother or father would now be able to spend with their child, knowing that their practice would be waiting for them upon their return to the firm.

Collaboration

Q: Where can you look to find your tribe?

A: Tribes come in different forms and can serve many different needs. You can find them based on personal similarities (e.g., working moms, similar age, similar hobbies, etc.) or you can find them based on career-related or project-related similarities (e.g., same class year, partnership, mentorship or sponsorship, etc.). The one thing all tribes share in common is the desire to support you when you are struggling, cheer you when you are winning, and encourage you when you are trying to accomplish your goals. The best place to look for a tribe is wherever you feel that sense of support, cheering, and encouragement. Those are going to be the people that keep you afloat when you feel like sinking, and they will be the people that are ready to celebrate you when you feel too modest to celebrate yourself.

Q: What are examples of positive outcomes that can happen when women work together with other women?

A: Gone should be the days where women feel that there is not enough room for all of us at the top of the corporate ladder. The time for unhealthy competition with other women should end. Instead, as women climb the corporate ladder, we should be reaching down and pulling up other women with us. That is the only way that real change in the workplace is going to happen. When women of all different races and sexual orientations work together, we can learn so much from each other's experiences, differences, struggles, and accomplishments. We can support each other and create new ways to overcome some of the struggles that working women face. We can help each other celebrate the strengths women have in the workplace and collaborate on better ways to utilize them to our advantage. Collaboration is key to helping women find ways to succeed. Susan B. Anthony stated it best: Wherever women gather together, failure is impossible!

Conclusion

This year's DRI Women in the Law *Band of Sisters: Better Together* program allowed us to present on very real issues concerning (1) competition in the workplace, (2) generational differences in workplace experiences, and (3) collaboration in the workplace. This program allowed women from all walks of life to encourage each other to be the best they can be in their respective careers and provided them with an opportunity to discuss solutions to specific problems that many women face while attempting to navigate a male dominated profession. Next year's

program will deliver more top-notch programs focused on issues specific to women in the legal profession. Come join us in 2021 near the Golden Gate Bridge. It's an event you do not want to miss!

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COVID-19

Conversations on Money and the Pandemic

By Bridget Grimes



First, I'd like to say that I hope every person reading this article is well, your family is healthy, and you are weathering this storm. These are difficult times and the uncertainty can be unnerving. That said, we are resilient and this community is awesome, supportive, and empowering. We will get to the other side of this, and be stronger, kinder, and wiser.

For the past few months, while the stock market declined and our lives changed on a daily basis from the fallout of the pandemic, financial security has been heavy on the minds of many. As a financial planner for women attorneys, I have had tens of conversations with clients and non-clients looking for reassurance that they will be financially okay. Some of the conversations I've had are shared below. I am hopeful that they address some of the financial questions you may have, so that you can take action yourself for your own financial security.

I've been furloughed. What do I do now?

Furlough means an income hit, so this client and I immediately took a good look at what options she had for income. As a result of the CARES Act, passed by the government to provide financial support needed due to the pandemic, unemployment will be supplemented by an additional \$600 per week that will last four months. Individuals can now qualify for this even if they are self-employed, or independent contractors.

This client and I also looked to see where she could conserve cash. We took a hard look at her monthly budget for places to cut. Mortgage deferral is now available for individuals who are unable to cover their mortgage payments, so this client reached out to her lender to request a deferral for six months. Student loan payments can now be deferred until September 30, 2020, and no interest will accrue during the deferral. For credit card debt or other loans (like car loans), individuals can reach out to the creditors to request help.

There are still employers hiring during the pandemic. In this case, this client kicked her job search into high gear and is currently interviewing for positions.

My income has been cut. How do I pay the bills?

As with the previous example, this client and I focused on the family budget, identifying which bills had to be paid (fixed expenses, such as mortgage, car loans, insurance, utilities), and which expenses she could avoid. For many, expenses such as travel and dining out must come to a halt.

Because we were focused on conserving cash, this client and I also looked at all of the savings that she had in place. This might be the time to temporarily stop contributing to retirement accounts or college accounts for the kids. While I don't suggest this lightly, if this makes the difference between covering expenses or not, suspend these savings for now. When life is back to normal, start the contributions again.

Another source of income that can be tapped is home equity. This client applied for a Home Equity Loan (HELOC) just to have the money available if there was a gap that could not be covered with other measures.

You may have the option of withdrawing money from a taxable brokerage account (a non-retirement account), but keep in mind you may owe taxes on gains.

One more option, provided by the CARES Act, is the ability to take withdrawals from retirement accounts before age 59½. While you'll still need to pay taxes on the distributions, you will not have to pay the 10 percent penalty, and the taxes can be paid over three years. The CARES Act also allows for a \$100,000 maximum loan from employer retirement plans, and payments on the loan will be delayed for one year.

I am nervous about the stock market and want to sell out of my investments and move to cash.

The stock market has suffered significant declines in the past few months. That said, there is a history of market volatility in times of pandemics and in times of economic contraction, and the market has not only recovered, but grown substantially after these events. If you have a good strategy in place that takes your appetite for risk into account, is based on the goals you have, and is a diversified, thoughtful investment strategy, now is not the time to change that strategy.

There are plenty of charts that illustrate the impact of taking yourself out of the market when it's down, and

missing the opportunity to recapture that loss by staying the course. This is a time to try to limit media intake, and have faith in the plan and in the guidance afforded you by a financial planner. Avoid making any emotional financial decisions.

My account is way down in value. Should I be doing something now?

I received a few calls from non-clients concerned that their account values were down significantly. The common theme among these calls was that none of the individuals had a financial plan, each was working with a broker rather than a financial planner, and none had engaged in a discussion with their broker about their goals for their money or their appetite for risk. In one case, the portfolio was 90 percent stocks. Given the performance of the market recently, the portfolio was down substantially. The returns from this portfolio were needed for living expenses, yet the investments were aggressively invested. There was a mismatch between the goals for the money and how the money was invested. In this case, there needed to be a strategy around the goals, and the investments should have been invested based on those goals.

For my clients, the market pullback means that many accounts are no longer on target with their investment strategies. For example, if your investment goal is to have 70 percent of your 401k in stocks and 30 percent in bonds, the recent market decline likely changed that. Now, stocks might account for only 64 percent of your account, which is positioned for less growth than you may have wanted. When there are big market declines, we rebalance portfolios. We rebalanced our client accounts once the market showed signs of stability. Check to see whether your 401k account has a rebalancing option, which can bring it back into target and on track with where you want it to be.

Again, the key here is to stay with your investment strategy and not let emotions dictate your money moves.

These are challenging times, especially for women. The World Economic Forum recently reported that women may bear the brunt of COVID-19 due to working longer hours: in addition to continuing to work their jobs, they are likely to be managing children at home, caring for relatives with the virus, and managing other household chores. To this I say, there is no more important time to take care of yourself, both from a financial and personal perspective. We will get through this, together.

If you have any questions at all about your financial situation, would like feedback or just to talk through your situation, please reach out.

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co-founder of Equita Financial Network, a collaboration of women-led financial planning firms. She is also author of the best seller Corner Office Choices: The Executive Woman's Guide to Financial Freedom. She believes in empowering women through education, collaboration, and support so that they have the confidence to take action for a better life.

Keeping Everyone Busy

By Laurie Miller



The CDC's #AloneTogether campaign is keeping families at home all across our nation. Schools and summer camps are closed. Employers are encouraging employees to work remotely when possible. States are in various stages of shutdown and re-opening and our country has closed its borders with Canada and Mexico (at least at the time of this writing). With many people now working from home and kids engaged in some level of "remote" learning from home, it can be difficult to make sure everyone stays engaged and focused on productive (or at least interesting) tasks. Here are some ideas (some involving screen time and others not) to keep everyone in your house entertained and productive!

Preschool/Kids Entertainment

- Check out this amazing [Giant List of Ideas for Being Home with Kids](#), which is filled with tons of ideas for things to do with kids while social distancing. There is definitely something on here for everyone!
- Read books (or look at picture books) for at least 30 minutes every day. Audible is offering free books for kids. And lots of famous folks are reading books aloud online. Check out [Josh Gad](#) reading *The True Story of the 3 Little Pigs!*, [Eric Carle](#) reading his own *The Very Hungry Caterpillar*, or [Betty White](#) reading *Harry the Dirty Dog*. You can find more celebrities reading books on YouTube by searching "Sto-



ryline Online" or by going to www.storylineonline.net (sponsored by the Screen Actors Guild Foundation). Or you can really go out of this world by listening to stories being read from the [International Space Station!](#)

- If your kids are fans of Mo Willems' books ("Don't Let the Pigeon Ride the Bus") there is a great app called [Don't Let Pigeon Run This App!](#) available in the Apple App Store (\$5.99). It lets kids create their own pigeon stories. They can be very funny! Mo Willems also does ["Lunch Doodles"](#) online every day at 1:00 p.m. ET.
- Drag out the Legos or any kind of blocks. Build the biggest structure you can using ALL the blocks.
- Burn off some energy with [GoNoodle](#). Inspire mindfulness and flexibility with [free kids yoga videos](#).
- [ABC Mouse](#) is offering a free 30-day trial and annual subscriptions at nearly half off.
- Inspire your child's inner artist with free [Crayola Coloring Pages](#).
- Get out a big bed sheet and some pillows and make a pillow fort or tent. Or, use all those big Amazon boxes you probably have on hand from your recent orders. Boxes can also make doll houses.
- Cook or bake something together every day. Try [Nourish Interactive](#) for free printable recipes.
- Puzzles—with lots of pieces. Try out some of those [3D puzzles](#) too. You can build the Titanic (though breaking

it in half and sinking it would be depressing), Harry Potter's Diagon Alley, the U.S. Capitol, the Eiffel Tower, and more!

- Sidewalk chalk. Leave a kind message for your neighbors on their driveway. Or bubbles. Don't have any on hand? Try [making your own!](#)

Educational Resources

- If you are homeschooling your child, looking for a replacement for in-person summer camps or find that you need additional resources to complement your child's remote learning, check out these [Amazing Educational Resources](#). Many of these resources are free or low cost. If you can't find something to do on this list, you're not trying!
- [www.Outschool.com](#) This site is great not only for these times of quarantine, but also for things like snow days or "I'm bored" days during the summer. It has one-day classes, short classes that only meet a few times, and even semester-long classes. My daughter has done several of their STEM and coding one-day classes and she loves them. The one-time classes are very affordable (approx. \$10-\$20), and the topics usually have a kid-lure. There are classes based around things like baby Yoda (yes, I know, The Child), Harry Potter, Star Wars, [cute animals](#), and more. They also have art, music, exercise, and hobby classes too. There's something for everyone's interests and for all ages.
- [Khan Academy](#) offers lots of educational resources and classes online. For younger learners, ages 2-7, try [Khan Academy Kids](#). Khan Academy has recommended [daily schedules](#) to keep learners from preschool all the way through 12th grade occupied.
- [Scholastic](#) is offering lots of free educational resources from pre-K through 9th grade.
- [Crash Course](#) has a YouTube channel with lots of different subjects, from anatomy and astronomy to world history and philosophy.
- The California Science Center is offering ["Stuck at Home Science"](#) every day at 10:00 a.m. PT.
- Go to the zoo! The [San Diego Zoo](#) has lots of live webcams on some of its most popular animals and some pre-recorded footage of animals in action too! Other zoos and aquariums with webcams include the [Monterey Bay Aquarium](#), the [Smithsonian National Zoo](#) and the [Houston Zoo](#). Or, if you are really feeling adventurous, go to [Mars!](#)
- Visit the [Smithsonian Air & Space Museum](#). You can tour the National Mall Building and the Udvar-Hazy Center. There are also games, educational videos for K-12, and podcasts available. (*Bonus points* for the first person to email me and identify the object shown on the landing page above and tell me where it is located!)
- Get outside with Ranger Rick! [Free digital subscriptions](#) are currently available. You will also get e-mail updates from the National Wildlife Federation with your subscription.
- Have a glow stick party. Do all things glow-in-the-dark. You may not be able to find toilet paper on Amazon, but I bet you can find lots of glow-in-the-dark things! I'll start the bidding with [this mega pack!](#)
- Ride virtual rides at an amusement park. Try out some attractions at [Disney World](#), [Universal Studios](#), and [Sea World](#).
- Host family game night with all your favorite board games. Up your game by making it [pizza night](#) too! For families with older kids, our new favorite family game is [Settlers of Catan](#).
- Rearrange the furniture. It's almost like getting a new house! Clean out and set aside bags or boxes to fill with donations when this quarantine is over. Channel your inner [Marie Kondo](#). Spark some joy!
- Make your own [play dough](#) or [slime](#). Both of these recipes use commonly available household ingredients (so no borax—because who's got time for that?).
- Go on a neighborhood scavenger hunt. Here are [two free printable lists](#) (though you do have to sign up for the newsletter). If you have older kids, they can do a [photo scavenger hunt](#) using their phones. Or, even better, for all those bored teens, how about a family [indoor selfie scavenger hunt](#)? The more creative or funny your selfie is, the more points you get. Selfie with a pile of laundry? Yeah, I can do that. Wait...selfie with wine isn't on here...

Family Fun

- Tour a museum—on a virtual tour, of course! [Here are 12](#) that are free. If you like the idea of virtual field trips, [here are a whole bunch more!](#)

Well, there you have it. Lots of ideas to help keep your family busy and entertained during these difficult days. Do you have a favorite quarantine activity? Head on over to

the WITL Community page and add your suggestions and pictures! We *all* need all the help we can get! Stay safe, stay healthy, stay home. Hope to see everyone in-person at the Summit this fall.

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Remote Work Toolkit

Top Tips and Tools for Productively Working Away from the Office

By Jennifer Morris Jones



As we attempt to navigate the uncharted waters of COVID-19, we as a legal profession have been forced to innovate the way we routinely work to continue to serve our clients.

However, while working remotely may be forced, sometimes forced changes bring with them incredible opportunities for higher production, profitability, and satisfaction. With special appreciation to the Cranfill Sumner and Hartzog LLP Law Paperless Pilot Group and specifically Matt Covington for their initiative leadership concerning remote work guidance for my firm, I am grateful to have the opportunity to share with you potential tips and tools that you will hopefully find helpful to survive and thrive when working in a remote working environment.

Top Tips

Communicate Frequently with your Team:

While working away from the office, it is vital to communicate frequently with your team to ensure a clear understanding of and expectations for assignments and plans to get the work accomplished. It is key to connect to continue to build the relationship with your team.

Collaborate via Videoconferencing and Screen Sharing Functions:

Consider videoconferencing through such platforms as Zoom/Skype for Business/etc. and utilizing screen sharing functions to collaborate on assignments.

Have a Dedicated Work Space: You may not be commuting into the office, but it is important to have a dedicated work

space within your home or remote location where you can accomplish your work. By creating a defined boundary, you can get into the mindset of gearing up for work when in your remote space and end your work day by “unplugging” when you leave this dedicated space.

Stay Active During the Day: Now that you are not spending a valuable part of your day commuting into the office, make a commitment to be active! Go for a walk or run in your neighborhood, put on a yoga or exercise video, or ride that Peloton bike!

Be Mindful of Changes and be Flexible when Possible:

While it can be difficult to change habits, the current circumstances provide you with an invaluable opportunity to innovate and be a leader of change for your firm/company! It's important during this time to lead through support, encouragement, and flexibility as our team members may be learning and implementing new ways of working.



Top Tools

Billing: If you keep track of billable time, familiarize yourself with all of your firm's options/apps/platforms.

Videoconferencing: There are some great videoconferencing options out there, including Skype for Business and Zoom.

Microsoft Office Suite: The Microsoft Office Suite of programs such as Outlook, Word, Excel, PowerPoint, and OneNote are key to accomplishing legal work.

To Do Lists: Office 365 offers the Microsoft “To Do” app, which is a fantastic app that allows you to create lists of necessary actions, which you can share with your team members, who can update the tasks, progress, and complete. As this is a Microsoft offering, it syncs with Microsoft Outlook.

Notetaking Apps: OneNote, Notes Plus, and Evernote all provide great options for taking notes during conference calls or when reviewing new case files or legal authorities.

Scanning: Mobile scanning options include Microsoft Office Lens, CamScanner and Adobe Scan. These apps allow you to scan documents by using your phone’s camera and then emailing the scanned documents via a PDF. You can also scan documents using the Notes program on your iPhone – open notes, tap the camera function, and then tap Scan Documents.

OneDrive: OneDrive is a great resource for sharing large files.

Productivity Apps: Productivity apps like Serene are helpful to encourage goals and staying focused. The Pomodoro Technique encourages productivity in focused, 25-minute intervals. There are also apps, such as TomatoTimer, that help implement the technique.

Other Apps, such as Fabulous, allow the opportunity track habits and set goals, which help promote productivity and satisfaction.

While working remotely, it is important to remember to disconnect at the end of the day. Apps, such as Daywise, can help you stop working at the end of the day by controlling when you receive notifications such that nonurgent ones can be addressed the next day.

Conclusion

While working remotely may be essential to both stay safe and protect others as a result of COVID-19, hopefully these tips and tools will allow you to continue to stay productive, profitable and continue to provide stellar service to your clients.

Jennifer Morris Jones is a partner in the firm’s Raleigh office of Cranfill Sumner & Hartzog LLP and is a member of the Workers’ Compensation Practice Group. She is a North Carolina Board Certified Workers’ Compensation Specialist and has been appointed to the North Carolina Workers’ Compensation Law Specialty Committee. Jennifer is Chair of the DRI Workers’ Compensation Committee. She is also Chair of the Technology Subcommittee for the DRI Women in the Law Committee.

How to Be the Lawyer Your Clients Need Now

By Wendy Merrill



If there ever was an opportunity for attorneys to differentiate themselves from their peers, it’s NOW. The traditional business model of minimum billing requirements has been teetering on obsolescence for some time now. Smart lawyers understand this and are open to breaking with tradition to better meet their clients *where they are*.

Where they are during this pandemic is swimming in a sea of uncertainty, and it’s an opportunity and a privilege for attorneys to position themselves as lifeboats. It’s about finding ways to provide real value to clients that will secure their loyalty now and well into the future.

Hiring an attorney has never been easy for most people. Lawyers represent what most humans fear the most: a loss of control. No one wants to admit that they don’t know

something, let alone pay someone to reiterate just how much they don’t know. Add in a potential black hole of attorney fees and, well, cue the lawyer jokes.

The current climate has created an opportunity for lawyers to provide their clients with the support they need, enhancing client loyalty throughout this crisis and beyond.

How do we do this?

The 3 Cs of Control: Commitment, Communication and Compensation.

Commitment

It’s time to re-think your relationships with clients. If you weren’t already doing this prior to the current pandemic, use the COVID crisis to take a step back and think bigger

about your clients' needs, wants and concerns. Instead of only focusing on the matters they've retained you to help them with, think about the bigger picture: their personal situation, the state of their business, and/or their job security.

Better understanding the client's perspective creates opportunities for you to position yourself as a *trusted advisor*, not just a lawyer. In the simplest terms, being a trusted advisor means consistently doing two things: minimizing or alleviating stress and/or improving someone's financial situation. All attorneys are in the position to do either or both for their clients, colleagues and community, and the good ones know how to do this on a daily basis.

Lawyers should be intentional about every exchange with their clients. Whether it's a call, Zoom chat, email or text, every single touchpoint is an opportunity to wear one's trusted advisor hat.

Communication

The best way to give your clients a sense of control is to clearly define expectations and then effectively communicate them. I am a big fan of developing an *onboarding* process for new clients. If your firm isn't doing this currently, they/you are missing out on a chance to differentiate yourself from the competition. By "onboarding process" I am referring to creating a formal process of welcoming new clients to your practice by laying out goals, critical steps that must be taken to achieve a favorable outcome, timelines and who is responsible for what. Putting pen to paper to provide clients with a sense of organization is an extremely valuable endeavor.

If you've missed the opportunity to do this initially with a client, no worries, you can certainly do it now. In fact, the COVID crisis has provided us with a great opportunity to revisit these things with our clients. Speaking of revisiting things with clients, now is the best time to schedule a call with them to let them know you are committed to partnering with them throughout this crisis and are interested in re-visiting their priorities. During the call, discuss tweaking your work to better meet their immediate needs and be sure to let them know when and how often they should expect to hear from you. It's also a good idea to ask clients

how they'd prefer to communicate with you (*i.e.* email, phone, videochat)...and then stick to a schedule.

Lastly, if you anticipate any material changes to your practice or firm, such as personnel changes, make sure you thoughtfully communicate these with your clients to allay concerns proactively. Finding out about your skeletal support staff by way of an unanswered email is certainly *not* the way to calm an anxious client's nerves.

Compensation

I have never been a fan of providing discounts. In fact, 99 percent of my clients have heeded my recommendations to *raise* their rates. Of course, this was before COVID took over our lives. Being in crisis mode requires a different way of thinking. When you have the conversation with your clients about meeting them *where they are* at the moment, communicate with them to see what their expense tolerance is and then make a prudent decision (a reasonable rate that will not cause you to lose money) about what you want to charge them NOW. It's all about partnership, not minimizing your value, so being clear about the fact that your pricing will return to pre-COVID rates once the crisis has subsided is absolutely essential.

For years those in the legal space have debated whether firms should hold on to the billable hour model, and many – if not most – agree that it's becoming a thing of the past. I realize that litigators may need to stick with some form of hourly rates, but most other attorneys (including some areas

of litigation) should be seriously considering instituting a flat fee structure. Offering a flat fee provides clients with much-needed financial control and allows them to better manage their budget. Many attorneys are afraid that offering flat fees with somehow cause them to lose money, but it is actually the opposite. If done well, it is quite profitable, more efficient and a much less stressful way of managing one's practice.

In addition to direct revenue, there are many other lucrative ways in which you can – and should – get compensated by your clients. We all want referrals, but they certainly are a bit scary to ask for. After all, when we directly ask for referrals we are expecting others to act as sales agents for our practices. No one wants to take on this kind of



pressure, yet we all want referrals. A much better way to obtain referrals is by asking those whose opinions we respect for help. If we share our desire for growth with our best clients and most trusted referrals sources and then sincerely ask them for advice on how to best do so, we will develop stakeholders in our success. Stakeholders are far more valuable than referral sources, and this is how we will most effectively grow our footprint.

Testimonials are another lucrative way of building a practice, yet most lawyers shy away from asking clients for a recommendation of their work. Posting positive words about one's experience with an attorney on either the firm's website or LinkedIn profile is essentially free advertising – and the best kind at that.

The COVID crisis requires creativity and agility, two skills that lawyers are seldom taught in law school or by their firms. If you take the time to consider your clients' perspectives and needs, you will gain the valuable insight you need to secure the success of your practice, both now and well into the future. Remember, the less you ask FOR and the more you ask ABOUT, the more value you will provide to your clients.

Wendy Merrill is the new EVP of Growth Strategy & Branding at DRI. Prior to joining DRI, she was committed to helping to prepare Rising Leaders to steward the firms and organizations of the future through the coaching and workshops of her consulting practice, StrategyHorse Consulting Group. She may be reached at wmerrill@dri.org.

Litigation Skills

Ten Tips for Keeping the Battle in the Courtroom

Combatting Juror Misconduct in the Digital Age

By Amanda Cialkowski



You're heading to trial. The issues may be simple or complex, but certainly there is information online an inquisitive juror may find.

Indeed, the internet is replete with information (and misinformation) relevant to the case. You know that the judge will give the usual admonition to the jury not to do any online research. You also know that, in this day and age, that instruction is likely to go unheeded.

In the "Google" era, there are steps every attorney must take to fully protect their client's interests at trial. Here are 10 tips to help in that regard.

1. Appreciate the angst jurors will feel being deprived of their devices.

As trial lawyers, we should fully appreciate the extent to which we are asking jurors to go outside their comfort zone in making decisions. Increasingly, juries will be comprised of Gen Y and Gen Z individuals. They have grown up in the digital age and likely rely on smart phones to make decisions as mundane as where to eat lunch. Asking them to make decisions affecting people's lives in significant ways without the benefit of their smart phones likely imposes

stress in ways we may not fully appreciate. For instance, numerous studies have demonstrated that Millennials view technology as an enhancement to daily life. According to a 2015 Webby research report, 70 percent of 18-34 year-olds use smartphones in the bathroom while 51 percent use smartphones while eating with family. See <http://webbyawards.com/about/webby-talks-tour/2015-white-paper/>.

Internet research is a part of everyday life, especially for the Gen Y and Gen Z generations. Google receives over 63,000 searches per second on any given day. In the courtroom, however, we deprive jurors not only of their access to information to which they are accustomed but expect them to make important decisions with questions they may have unanswered. In preparing for a trial, it is critical that attorneys understand that, while there are steps they can and should take to prevent juror misconduct, it is virtually impossible to control. It is safe to assume that at least one juror will consult Google to answer a question that juror has at some point during your trial. Jurors whose daily habits include internet searches may do so almost reflexively. Planning for juror internet research during trial can be an important part of trial preparation where there is likely to be information regarding the case on the Internet at the

time of trial. An attorney who simply trusts that jurors will resist the urge to look things up does so at her peril.

2. Investigate content early.

Once you have been engaged as counsel, and throughout your representation of the client, it is crucial that you know what is available to any future juror armed with a smartphone. Spend some time on the Internet and make sure you're aware of what a juror may find. Advise your client about how their statements in response to an incident will look to potential jurors who may find those statements. This needs to take place throughout the time the case is worked up for trial and is particularly important immediately before and during trial.

3. Comb your client's sites.

Evaluate your client's Internet presence. That includes combing your client's website to ensure that it does not contain material that is at odds with assertions you will make at trial. Does the website contain warnings, link to product documents, etc.? You need to know what is there.

In addition to the company website, if your client has a customer service line or other similar (800) service number, you should call it and ask the kinds of questions apt to be asked by a juror. For instance, if your case involves an allegation that your client made a false representation in order to sell the product, call the company and ask whether the product has X quality. If the answer you receive from the customer service line is contrary to what you plan to say in court, you need to know that.

You must also check the client's social media sites, such as Facebook, Instagram and the like. Does the client allow members of the public to upload photos or make postings? If so, are there photos or posts showing product misuse or information that may reflect poorly on the client or the case? If so, you may wish to take down those posts. Be wary, however, of potential spoliation claims. If the client is on notice of a claim, be sure to preserve any evidence or metadata that may be necessary for discovery.

Certainly, a company should be able to present correct, factual information on its website. It may also, however,

have an obligation to preserve prior versions of its website or risk being found to have spoliated evidence. See *Katiroll Co. v. Kati Roll & Platters, Inc.*, 2011 U.S. Dist. LEXIS 85212 (D.N.J. Aug. 3, 2011) (finding that a party had engaged in unintentional spoliation by changing his profile picture on Facebook during the pendency of litigation); see also *Piper Jaffray Cos., Inc. v. Nat'l Union Fire Ins. Co. of Pittsburgh, Pa.*, 967 F. Supp. 1148, 1152 n.3 (D. Minn. 1997) ("The Court understands that Piper's website has changed in response to this litigation; the Court fully expects Piper to cause all relevant previous "editions" to be preserved for discovery.")

This responsibility to maintain prior versions likely applies not just to the company's own website, but to any pages it might maintain on other sites, such as Facebook. Attorneys have faced staggering sanctions for directing their clients to remove photos from Facebook and otherwise failing to produce relevant, responsive

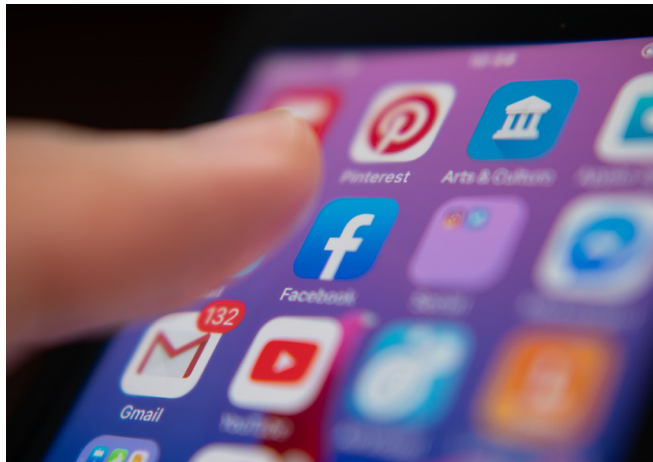
information from social media sites during discovery. See "Facebook Spoliation Costs Lawyer \$522,000; Ends His Legal Career," <http://blog.x1discovery.com/2011/11/15/facebook-spoliation-costs-lawyer-522000-ends-his-legal-career/>.

4. Check sources such as Google Earth, YouTube, Wikipedia, CPSC Database, and the like.

If your case involves an accident scene or building, you should enter the address/location into Google Earth to see what images are available. You may want to make sure that your demonstratives and descriptions in court will match what a juror finds.

Wikipedia is a site commonly used and may be one target by jurors looking for information. They may look up your client, key witnesses, or certain illnesses, injuries or terms.

In March 2011, the Consumer Product Safety Commission launched a Congressionally mandated database that permits consumers to submit reports of harm or risks of harm and to search for information about a variety of products. See www.SaferProducts.gov. If you're litigating a product liability suit, you should enter that product name into the database to see if any complaints pop up. This is an exercise you'll want to repeat, particularly close to and during trial.



Finally, it is amazing what can be found on YouTube, including videos regarding complaints about products or GoPro videos from ski resorts, sporting events and the like. It is worth searching for not just the product involved in your lawsuit, but similar products. It is also important to search for any videos of or uploaded by the plaintiff. You should also search for your (and opposing) expert witnesses. There are a surprising number of clips from expert depositions and trials on the site.

Once you've discovered relevant content, you can address glaring inconsistencies in the courtroom to neutralize any potential issues. For example, imagine your case involves an accident scene in which the Google Earth photo looks meaningfully different from the scene did on the day of the accident. Consider pulling up the available Google Earth image and walking a witness through how the scene differed on the day of the accident, using overlays of photos from the day of the accident.

5. Read local press.

Read any press about the incident involved in the litigation. Particularly in a high-profile case, there may be extensive press coverage. Depending on the case, it may even garner national attention. To the extent it has had any televised coverage, make sure to know what video is available.

In addition to press directly related to the incident involved in the litigation, make sure you know what else is out there about your client. Is there some unrelated bad press (*i.e.* your client has recently closed a plant in the jurisdiction, causing some negative publicity)? If so, you'll want to be aware of it going into trial so you can determine how best to address it.

6. Ask for an early admonition

As more courts are discovering juror misconduct, several jurisdictions are adopting stronger and more explicit warnings. The admonition should be given the moment prospective jurors enter the courtroom, prior to any description of the case. Once they know even the parties' names, they may begin searching for information.

7. Explain why independent research is forbidden and the consequences of a violation.

In crafting a more effective jury warning, consider the need to explain to the jury why it is so important they not engage in outside research. They should be told that each of them is responsible to make sure that other jurors are abiding

by rules and that they should report jurors who are doing independent research.

The court should be explicit about what will happen if a juror is caught violating the rules, and that such conduct may result in fines and even jail time. For instance, California recently passed legislation which provided that jurors who violate a judge's instructions not to use social media or conduct research about the case may be punished with contempt of court, a misdemeanor. Courts have punished jurors by kicking them off juries, fining them, or even imposing jail time. If jurors appreciate the risks, they are more apt to follow the rules.

8. Ask that jurors sign a pledge not to do research.

Some judges, including a federal judge in the Southern District of New York, have required jurors to sign a pledge promising, under penalty of perjury, not to perform internet research. See <http://verdict.justia.com/2011/09/27/should-jurors-take-a-no-internet-pledge>. Lawyers in California have similarly sought, and obtained, the use of a juror declaration. In a case involving the death of a participant in a radio station contest, "Hold Your Wee for a Wii," jurors were going to be required to swear that they did not use any communication technologies to do research that "in any way directly or indirectly" dealt with the incident and the lawsuit — or even with the attorneys and judge. They would also have to swear that they did not watch or read any media coverage during the trial. See <http://www.utsandiego.com/news/2009/sep/13/revised-jury-instructions-do-not-use-internet/?&zindex=165049>. If a juror is unwilling to sign such a declaration, or otherwise acknowledges they could not abide by the instruction not to do independent research, they should be a "for cause" strike. See <http://www.bizjournals.com/twincities/stories/2009/05/11/focus3.html?B=1242014400percent255E1825130>.

9. Consider letting jurors ask questions.

While it may scare any trial lawyer to permit jurors to ask questions, doing so may lessen the temptation to have jurors go outside the courtroom for answers. Any such questions need to be run by the judge to evaluate their propriety. But in addition to preventing misconduct, permitting questioning may provide valuable insight into jurors' thinking. A thoughtful piece on considerations of such an approach can be found here: <https://www.litigationinsights.com/allow-jurors-ask-questions-witnesses/>.

10. If you win, never contact jurors.

It is highly tempting for a victorious trial lawyer to contact jurors to discuss the case. However, if an attorney learns of misconduct, she is duty-bound to report it to the court. Doing so after a victory, risking a mistrial if you learn of misconduct, is not worth it.

Amanda M. Cialkowski is a shareholder and trial lawyer for Nilan Johnson Lewis PA in Minneapolis where she practices in the areas of product liability/mass torts and commercial

litigation. She also serves as the chair of the product liability/mass tort practice group. Amanda is a thoughtful and accomplished litigator, and she truly exceeds client expectations as a defense trial attorney. Her skills in the courtroom have earned her a sought-after reputation when a case goes before a jury or judge. She frequently joins teams on the eve of trial as drop-in counsel. Amanda is an active member of DRI and its sister organizations, FDCC and ADTA. She also serves on the Board of Directors for YMCA Camp Northern Lights.

Eight Tips for Retaining an Expert, from the Experts Themselves

By Dr. Caroline Crump and Natalie Baker Reis



Every case has its own unique set of facts and determining the best methods in defending it can be tricky. Luckily, there are certain professionals who exist to provide

this kind of support for you: litigation consultants and experts. Experts have considerable medical, engineering, and scientific experience—often in a wide variety of cases—that can be leveraged to navigate nuanced technical issues. Whether exploring potential strategies, assessing the strength of a particular allegation, or presenting a persuasive argument to a jury, experts can help attorneys prepare their cases and defend their clients with confidence. Here we present some insights into successful strategies for creating the attorney-expert team, from our perspective as experts who provide services at different stages of the litigation process.

Identify the Basics of Your Case

Identifying certain issues up front can help guide you in your search for the right expert. First, assess what you truly need in order to move forward in evaluating and successfully defending your case. Does the case involve a highly technical piece of equipment, or do you need a deeper understanding of the medical facts in order to form a legal strategy moving forward? Knowing the basics can help you narrow down the types of experts that will be most beneficial.

Additionally, it's essential that you know your budget and what you're willing to spend. If you expect the case to go to trial, would you be willing to pay a little more for an expert with a higher level of experience? Would retaining two

experts to cover the various case aspects be preferable over hiring just one? Preparing an internal cost analysis before contacting prospective experts will help provide a clearer picture of what is truly needed for your case.

Engage Experts Early!

Figuring out your team should be done as soon as possible, as it can take a good deal of time to locate and retain the right expert for your case. After all, obstacles can arise during the process (e.g., the potential expert has a conflict) that will send you back to the beginning of your search. Additionally, the sooner you engage an expert, the sooner you can benefit from the expert's insight into the strength of the case and potential issues that the other side may bring up.

Engaging an expert early is helpful to the expert, as well. Experts, like attorneys, are extremely busy, and they might not have time in their schedules to take on your case—especially if little advance notice is given. Securing an expert early increases the likelihood that the expert can commit to the deadlines you've provided and dedicate the appropriate amount of time to your case in order to provide his or her best work.

Finally, waiting too long to engage an expert could result in the incurrence of additional fees. For example, if you need a work product completed in a matter of days, chances are you will be charged a "rush" fee for the short turnaround time, in addition to the expert's regular fees. This extra cost will be passed on to your client and most likely won't be appreciated – especially if it could have been avoided.

Use Existing Resources to Find and Vet the Expert

Finding the right expert—whether a consulting or testifying expert—for a case can seem overwhelming, but, thankfully, attorneys have a vast amount of resources at their fingertips. One of the greatest ways to find an expert is through referrals from other attorneys. Start by asking attorneys in or outside your firm who you know have worked with experts and get their feedback and recommendations. Clients can be great resources as well. They, too, have a vast network to tap into and may be familiar with respected experts in the field, as well as those experts that you should avoid. Experts you've worked with in the past can also serve as invaluable sources of information and referrals to other experts they personally know. Furthermore, the DRI community can provide some essential guidance. This expansive network of attorneys located all over the country can provide valuable information on their experience with specific experts. By utilizing these resources, you will be able to develop your own pool of experts over time; one that you will be able to pick and choose from in the future.

Once you have identified a potential expert for your case, it's important to vet him or her thoroughly to determine if he or she will provide the most effective testimony or analysis for the issues you've identified. First, carefully review the expert's credentials. This involves checking his or her qualifications for relevance to your case, as well as confirming that the background information you have (*i.e.* the expert's curriculum vitae and references) is accurate and complete. In addition, you should review the expert's past publications and reports, if available. This will give insight into whether the expert has published anything relevant to the issues in your case, as well as anything that contradicts the position you're taking. Simply talking to your colleagues is another great way to find out what it's like to work with this expert: for example, how efficiently and rigorously the expert conducts his or her analyses.

Be Prepared When Speaking to the Expert

Once you've vetted your prospective expert, it's important to speak with, and if possible, meet with him or her. Doing so allows you to assess the expert's qualifications further, as well as determine what kind of impression the expert will convey to the judge and/or jury. Interviewing the expert also provides an opportunity to learn additional information that cannot be gleaned from the expert's curriculum vitae. This could include cases where the expert only acted in a consulting role and did not provide an opinion that is publicly available. Speaking with the expert also gives you a good

opportunity to delve into the expert's previous experience on cases with similar fact patterns. This will not only allow you to assess the extent of his or her expertise in the area, but it will also help you determine if that expert is indeed the right "fit" for your case.

One of the first steps in speaking with an expert is to ensure that there are no conflicts of interest with any affiliated party in the case. Be mindful that the expert could be conflicted out! This means that you should be prepared to share only general case information and case issues that are not confidential, rather than a detailed explanation of all available information. Once you have confirmed that there is no conflict and the appropriate nondisclosure agreement has been secured, you can then share additional information.

Support the Expert's Analysis

Assuming the expert can read minds is never a good rule of thumb, so the more case materials, details, and information an attorney can supply, the better. This can include the complaint, any relevant pleadings or discovery documents, photos, X-rays, medical memos, deposition transcripts, etc. The expert will determine what is relevant for the issues that he or she will address and knows what types of documents contain the most relevant information for his or her area. Other documents may be reviewed, but not analyzed.

You should also provide a clear picture as to the expected work product you desire from the expert. For example, if a nurse expert is a member of your team, maybe you'd like him or her to identify specific issues, such as alternative causation or mitigating factors, or maybe you'd like the allegations of injury in connection with pre-existing medical conditions or exposures to be analyzed. In any event, determining the scope of your desired work product will be helpful for the expert in determining which case materials are the most pertinent and relevant to your case.

In addition, the attorney's budget requirements should be discussed prior to beginning any work. No client wants to be surprised with a bill that is significantly higher than what was expected, so attorneys should go over the expert's fee schedule and understand when certain pricing items apply. Attorneys should also ask to be kept in the loop from a cost perspective as the expert bills for his or her work. This allows them to stay abreast of potential total case cost, and if need be, gives them the ability to tweak the initial agreed-upon strategy discussed with the expert.

Finally, attorneys should always provide their experts with upcoming court deadlines, as well as their own internal ones. By knowing these dates in advance, experts can space out

their workload accordingly and not have to feel rushed or sacrifice the quality of their work due to time constraints.

Trust the Expert's Findings

This applies at several stages of the case. First, an expert must be able to defend their own analyses. This means that he or she needs the space to perform an independent analysis based on the entirety of the evidence. From the very beginning, you can help experts attain that space by alerting them to issues to address, rather than specific conclusions that you hope will be reached. Understandably, this may feel risky! However, the case will only be strengthened by including an independent analysis guided by scientific and engineering principles. Additionally, this will help the expert create a clear analysis and argument for each conclusion that can withstand *Daubert* challenges.

Along these same lines, when experts complete their analyses, those findings may or may not be favorable to your client. However, those findings that are unfavorable are not necessarily a bad thing. After all, you will learn ahead of time what the weaknesses in the case are and have time to craft a defense against them. Furthermore, you have identified a potential issue for your client, which your client can then address to help mitigate or avoid future lawsuits. Overall, it is better to know what problems exist, as well as the magnitude of those problems, rather than ignoring them in hopes of avoiding blame.

Consider Using Multiple Experts

Often, if there is a strong fact pattern, it can be bolstered by expertise in multiple disciplines that dovetail together. For example, a vehicle-pedestrian accident can be addressed by a team of civil engineers (to address structural and code issues with walkway/roadway), accident reconstructionists (to establish what each party was doing in the moments leading up to the collision), human factors scientists (to address issues of driver and pedestrian capabilities, including sightline obstructions and attention/distraction), and biomechanists (to address injury causation). Complementary findings from these experts—such as no code issues, a distracted pedestrian, and a clear movement error leading to injury—enhance the credibility of your argument based on the fact pattern. Furthermore, many of these experts rely on each other's findings to support their own conclusions. For instance, human factors scientists may rely on accident reconstructionists to provide details about the situation the involved parties were navigating at the time, and accident reconstructionists may rely on biomechanists to provide bounding information about minimum and maximum vehicle

speeds that could cause a broken bone when the pedestrian and vehicle collide.

However, it is not always ideal to include experts in all relevant disciplines! There can be overlap among issues that each expert is qualified to address. For example, gait mechanics can be addressed by human factors experts and by biomechanists. When there is sufficient overlap in the analyses completed, you risk one or both experts getting a *Daubert* challenge. Moreover, these experts may come to somewhat different conclusions about the same issue, which can weaken your case. Therefore, while it can be beneficial to utilize a team of experts, the members of the team should be chosen with care and experts with overlapping expertise should be kept in contact to ensure their respective contributions are unique and complementary.

Know When to Change Your Expert and When to Settle Your Case

Cases and theories evolve over time. This means that the experts you selected at the beginning may not be the same experts you have at the end. Luckily, the issues often evolve such that the same expert may be able to testify on the new issues. However, it may happen that the expert cannot testify on a new issue (for example, if you've gone adverse to a co-defendant). Don't be discouraged in this case – you're not necessarily starting back at square one! There may be someone on the expert's internal team, within the expert's company, or that the expert otherwise knows who can get spun up on the case quickly.

On the other hand, you may end up with an expert who can't answer your question as you thought. For example, there may be insufficient evidence for an accident reconstructionist to complete his or her analyses. This can be used to your advantage: you can take the time to figure out a new strategy for the defense of your client, and you can use this knowledge to challenge the opposing expert's reconstruction.

In some circumstances, you may decide that the expert's analysis suggests you should admit fault and settle the case. Always discuss with your experts before going this route! One expert may believe this is the right thing to do, while another may have an excellent argument in defense. The experts may also have suggestions for a new theory. In the end, however, the experts should be able to help you decide the right path to take to resolving the case in the most beneficial way possible.

Ultimately, experts can play a crucial role in the outcome of your case, so it's important to think of the attorney-expert

partnership as a team effort. The better you know what you truly need to accomplish and the more you supply the necessary information and guidance, the more effective and beneficial the expert's analysis and/or testimony will be.

Dr. Caroline Crump is a human factors scientist with Exponent in Southern California. She graduated from UCLA with a Ph.D. in Psychology and subsequently completed post-doctoral training at the Semel Institute for Neuroscience and Human Behavior at UCLA. Since joining Exponent, Dr. Crump incorporates her expertise in human behavior and information processing into analyses of human performance

in a variety of day-to-day and accident contexts, including questions of driver behavior and response, product use and failure-to-warn claims, use of guards and personal protective equipment, children's capabilities and understanding of hazards, and slips, trips, and falls.

A graduate of the University of Texas School of Law and a former practicing attorney, Natalie Baker Reis now leads business development efforts for Medical Research Consultants (MRC), a litigation support and healthcare compliance provider based in Houston, Texas, that specializes in Record Retrieval and Nurse Review & Analysis services. For more information on MRC, please visit www.mrchouston.com.

A Win or a Loss

Your Voice and Body Language Can Give You a Competitive Edge

By Rena Cook



Even in the finest law schools across the country, there are few classes on effective communication. A good deal of time is spent learning *what* to say, but very little on *how* to say it. Unless a litigator is a naturally gifted storyteller who instinctively knows how to keep an audience's attention, many attorneys don't know how to use voice and body language to win the jury's favor. When so much is at stake, the very real edge that strong presentation skills offer can make the difference between a win or a loss. The attorney that is comfortable and confident, who uses the voice in expressive ways, and who makes a connection with the jury, is very likely to have an advantage over the less expressive one.

People form judgements about us the moment we open our mouths, and juries are no different. Voice quality can draw a jury in or push them away. A warm, authentic, intelligible, compelling voice will typically get a jury on your side. But problems can arise when vocal quality is strident, harsh, or nasally; when words are not clear; when volume is too low or too high; when speech rate is too slow or too fast; when body language and gestures obscure the message; or when a regional accent confuses the listener or draws attention away from the message.

Whatever the communication issue, it can be eliminated with training. This article, the first of two about compelling storytelling, specifically addresses issues with the voice.

Training Your Voice

You aren't stuck with the voice you think you were born with. By learning a few basics about how the voice works, and with practice, you can make substantial changes in how you sound and how a jury responds to you.

As a trial lawyer, you have a difficult job. You must get the jury on your side. You must engage, impress, and convince them. You want to make them feel fear, empathy, sadness, grief, or outrage. This is not easy – for anyone. You will spend multiple hours and many days researching, writing, constructing, and even rehearsing your argument in order to ensure success. You probably won't spend much time thinking about your voice. Instead, you'll just hope that your voice comes along for the ride and does what it needs to do.

Think about the best litigators you have seen and heard – the "litigator from heaven." What about their voice makes them expressive and compelling? Things that come to mind might include: strong volume, clear and articulate words, warm and confident quality, vocal variety, and strength with ease.

The expressive voice is an integration of a number of systems in the body that work together. Each system can be trained to perform at a higher level. Barring accident or extreme illness, we all have the same equipment for powerful and clear speech.

Let's look at how we can train the component parts of the voice: the body, the breath, the resonators, and the articulators.

The Body

Our body can suppress or release the voice by how much tension it carries with it. Expressive speakers know that releasing habitual tension is the first step. Tension anywhere in the body affects the voice. Tension in the head, neck, shoulders, rib cage, hips, knees, and feet can radiate to the vocal folds and dampen the voice. A small, high voice is caused by tension; a constricted husky sound is caused by tension. Mumbled and mushy voices are caused by tension.

Stretching and shaking major body bits can release habitual tension that you don't even know is there. Isolation of body parts is a simple release exercise that relaxes and energizes the body.

Start with the feet: make a circle with each ankle and then shake out each foot. Soften the knees; locked knees will destroy ease and presence as well as block deep central breathing. Make a circle with your hips, like the hula hoop days of your youth. Stretch each side of your rib cage. Move your shoulders in a circle. Gently release your head and neck. Gradually relax your body to improve your voice.

Breath

Breath is the power source of the voice. In fact, breath *is* voice. What you hear and recognize as human speech is breath that moves out the lungs past the vocal folds, which vibrate against the breath flow hundreds of times per second. If you don't have enough breath, you don't have powerful, energized sound. If you have trouble breathing deeply, centrally, and efficiently, there are a number of exercises that can help. Some can be found in the book *Her Voice in Law* (see link below).

Resonators

The resonators are the body's natural amplifiers. Think of your mouth as your megaphone. If your mouth is small and tight, your voice will be small and tight. Massage the jaw hinge, clean the inside of your mouth with your tongue, do a

big open-mouthed yawn. Intentionally make more space in your mouth and your voice will be louder and warmer.

Articulators

If you have been told that you can't always be understood, you may have an articulation issue. For any number of reasons, our articulators may be lazy, we may leave out parts of words, or drop final consonants. A helpful exercise is "every part of every word." Practice your speech at a low volume and focus on saying every part of every word, each syllable, each vowel, and each consonant. Then go back and practice your speech at your regular volume level. Once your mouth has intentionally done every sound, you will be much more articulate and speak with ease.

In Conclusion: A Checklist

The next time you are preparing for an opening or closing, follow this simple checklist:

- Release physical tension
- Ground your feet, soften your knees
- Connect to deep central breath
- Make space in your mouth
- Speak your words clearly

Remember the "litigator from heaven" that we discussed earlier? Litigators from heaven are comfortable in their own skin. If you follow the five steps above before you walk into the courtroom, you will be comfortable in your skin and your voice will be strong and compelling.

*Rena Cook is Professor Emerita at the University of Oklahoma. She is a TEDx speaker, author, voice, speech, confidence, and presentation coach. She is the founder of Vocal Authority, a training consultancy serving attorneys who want to use their voice in more commanding and authentic ways. She has authored several books, including *Her Voice in Law*, which she co-wrote with Laurie Koller. The book provides additional advice on the above topics and more, and is available at <https://www.americanbar.org/products/inv/book/393310705/>.*

In-House Counsel Spotlight

Sandra K. Nowak

By Melanie D. Lipomanis



Sandra Nowak is Chief IP Counsel for the Consumer Business Group at 3M Company based in Saint Paul, Minnesota. She was generous with her time in speaking with us about 3M, her career path, and her role as in-house counsel.

Tell us a little about 3M and its Consumer Business Group.

There are four main business groups in 3M: Health Care, Safety & Industrial, Transportation and Electronics, and Consumer. The Company has approximately 80,000 employees in 180 countries, and manufactures over 55,000 products worldwide.

What was the career path that led you to your current in-house position?

My grandfather was a lawyer with a generalist practice in a small town and loved being an attorney—working up until the day he passed away at age 86. I remember how he used to quiz us on legal cases when we were kids. While an undergrad, I was interested in both medicine and law. I interned in an E.R. and also did chemical research for the United States Department of Agriculture. While working at the USDA, I was exposed to patenting and really liked the intersection between law and technology. I decided to take the patent law path for myself. After I graduated from law school, I worked for a law firm in Portland, Oregon, for five years doing IP work, then I moved in-house with 3M here in Saint Paul.

What is your current role in 3M's Consumer Group?

I have been with the Company for 15 years and really enjoy the work I do and the broad spectrum of people I have opportunities to collaborate with. 3M has over 100,000 patents and I predominately do intellectual property preparation and prosecution, enforcement and defense through litigation and licensing, transactional work, and trade secret protection. I've worked with almost all of the business groups within 3M, and currently get to work with the Consumer Group.

Because we are in so many countries and territories, I do a lot of global work, and I do a significant amount of work with outside counsel.

What was the most important thing you learned as you transitioned to your role as in-house counsel?

In my case it was global law—it is something you have to learn over time and, as you can imagine, the processes and applicable laws can vary greatly. Another aspect of going in-house in general is that there are many more meetings and interfacing more directly with many different business clients than you are exposed to in a law firm.

Rather than advising clients on the black letter law, in-house counsel must learn the risk profiles of the people and businesses they work with—they do not want 20 options, but your best 3 or 4 that fall within their own risk profile. Learning risk profiles is not something they teach you in law school or necessarily a skill you can hone working in a law firm. In-house you must partner with various groups, and they expect you to provide meaningful input on options as a part of the leadership team, so that you can help the business innovate and collaborate on reaching the business goals and objectives.

What challenges have you faced in your in-house position?

Having a global team reporting to me. I have found it helpful to remain open and curious with respect to different cultures and customs. I frequently interact with people who have very different communication styles than you would find here in the United States. I overcome these barriers by actively listening to understand and communicate effectively.

It is also important to keep abreast of local news, events, and challenges in the global regions I work in. There may be events occurring in a particular area that could potentially impact the people I work with and the work we need to collaborate on, so it is also important for effective communication to remain sensitive to any changes occurring in their communities and work environment.

How has your job changed since the novel coronavirus reached US shores, and how has it changed the 3M business model to meet emergent demands?

Social distancing requires modifications to how work gets done. Because I have a global team that reports to me, that aspect of work has not significantly changed since telework and videoconferencing were already standardized processes for us.

3M's business has swung into overdrive working with governments and officials, and literally doubled its production to help meet the urgent need for medical supplies, including N95 masks and respirators, both in the United States and globally. In the United States alone, the Company is manufacturing over 35 million respirators per month designated for healthcare workers, energy, food and pharmaceutical companies to help protect people.

I am proud of what 3M employees are doing to help in the fight against the pandemic around the world and here at home. They have ramped up mass production of all products deemed essential and are also doing a good job of keeping employees safe in the process.

What do you enjoy most about your role as in-house counsel?

I absolutely love the people at 3M. The IP and legal professionals in the United States and on the global team are always willing to help out and partner on projects. We have a world-class team of talented people. In addition, 3M is a large corporation with four different business groups, and many sub groups within each business, so my work allows me to engage with people across groups and see a variety of different business models and technologies. I enjoy working with diverse teams and technologies, and I learn something new every day. It keeps my job interesting and fresh.

How can law firms or outside counsel best partner with you to achieve your legal department's goals and objectives?

Understand our end goals and objectives and partner with us to achieve those goals and objectives. A little risk profile learning would be helpful in this process. Engage in strategic discussions with us early on and maintain that open dialogue. As outside counsel gains experience working with us, they learn more about our business model and risk profiles and that makes it easier to communicate and collaborate strategically. We look for outside talent that can not only litigate well but also bring value to the business, and that requires a partnering mindset.

Do you believe in-house counsel plays a role in increasing the diversity of the members of their outside legal team?

Most definitely, and 3M actively advocates and promotes diversity both in-house and within the firms it partners with on outside matters. We believe our legal department has an obligation to support firms in their efforts to increase diversity. One of the ways we achieve this is to have a strong preference for partnering with firms that promote relationships with successor counsel and we want to see diversity at that level. That serves to encourage meaningful effort by firms to promote women and minorities and also ensures we have a continuity of outside representation.

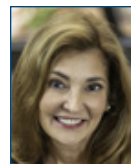
We also work in partnership with other businesses and firms to promote diversity. My colleague Michelle Bugbee, of Eastman Chemical, and I co-chair the Women Inventors Subcommittee of IPO's Women in IP Committee, which has developed a comprehensive Diversity Toolkit which provides a four-step process for businesses and organizations to use in improving gender parity in innovation. Last April, I testified before the Senate Judiciary's Subcommittee on Intellectual Property regarding gender disparity in innovation.

What is your advice for women attorneys considering an in-house counsel position?

When you do decide to move in-house, research the companies you wish to join to ensure the culture and work ethic is a good fit with your professional and personal goals. Once you do find a good match, you will be rewarded with engaging and interesting work, and co-workers that support and appreciate your contribution to the business.

What are your interests and hobbies outside of your profession?

I love to bake, read, play sports (albeit, not well), scuba dive (my 10 year old got certified in preparation for our spring break trip to Grand Cayman that was cancelled due to covid-19), and spend time with family and friends.



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Women in the Law's Champion

Teaching Leadership by Example: Featuring John Trimble

Introduction by Marie Trimble Holvick



I have the honor and privilege of calling John Trimble by the name "Dad." I am particularly pleased to introduce him as the featured WITL Champion. It is a distinction that is well deserved.

My dad has always been my greatest cheerleader. From a very young age, he encouraged me to stand up for myself and to take a leadership role. He never called me bossy—he called me a leader. This is incredibly important for young girls. There is a saying that "bossy" girls grow up to be leaders." However, when was the last time you heard someone call a little boy bossy? My dad understood this psychology, and he channeled my energy.

However, my dad didn't reserve this mentoring for his daughters. He has selflessly given hours of his time to mentoring women in the legal profession, including mentoring and coaching several DRI members. He has championed women for leadership positions in professional organizations, coached women on partnership opportunities and career goals, and makes a point of referring new work to women attorneys. I'm pleased to share my dad's words of wisdom on leading by example in the interview below. He is truly a WITL Champion.

Describe your role at your law firm with respect to working with and being a champion for women attorneys.

My mentor, Robert Wagner is and has been a champion of women, so initially I learned it from him. (I have former partners who have been a U.S. Attorney and Chief Judge of the US District Court.) At a very early stage in my career we committed to be diverse, so our hiring, mentoring, and practice philosophy has always advocated for women. I have tried to be a constant voice for hiring and promoting women.

What programs or efforts have been put in place at your firm to help advance women attorneys?

We have a strong mentorship program and a strong Diversity Committee. Both programs emphasize advancement of women. More importantly, and this is critical, my firm has a culture of transparency. The transparency enables mentors to see how their mentees are doing, and it allows associates and younger partners to see how they are doing with respect to criteria for advancement. Our culture also encourages transition of client relationships that results in origination and development of business. We have multiple women among our top rainmakers and that number is growing daily.

What role do you think DRI and its leaders can play in creating programs or efforts to help advance women attorneys in their careers?

The program within WITL to have senior leaders assisting younger women to learn the pathways to DRI leadership is a critical first start and needs to be renewed and invigorated. I also think that it is critical for all SLC's to have WITL liaisons with meaningful participation. Those liaisons should then be encouraged to accept an entry level leadership position in the SLC steering committee so that they can begin the process of rising to greater leadership. I also believe that WITL could host a stand-alone leadership seminar where they invite women leaders from the SLDOs and SLCs to participate. It would be good to promote membership in DRI and the experience would be empowering. Lastly, DRI

should encourage state defense groups to vote women into Regional Director slots so that more women can come onto the Board through that vehicle.

In what ways have you used to your leadership role in DRI to create programs or efforts to help advance women attorneys outside your law firm?



I supported and encouraged the formation of a WITL committee within my own SLDO in Indiana. When I do strategic planning for SLDOs I always encourage them to form and promote a WITL section or committee, and many have done so. I personally support and encourage up and coming young women to seek leadership with their SLDO or within DRI, and I have done that for years. When I meet promising young lawyers, male or female (but mostly female) at DRI meetings and events, I will write the leader of their law firm or their mentor an email of personal note to comment on the good impression that their colleague has made on me and to thank them for the support they have offered to the young lawyer. I will also offer to provide any help I can to assist their young lawyer in seeking a position within DRI. I am also a member of the WITL Steering Committee as a part of the mentor program.

Why take time from your own legal career to be a mentor, partner, and champion as far as other women attorneys' careers? Why does it matter to you personally?

My mother and grandmother were politicians. They were very influential and stars within their respective circles. I am a proud "Daddy of Daughters." I was motivated early on to study about self-esteem and the role of fathers in instilling self-esteem. So, from a very early age I encouraged my daughters to take on boys in speech contests, elected offices, and sports. On the business side, I am impressed every day by the women in my firm. They are all rock stars, and it is easy for me to encourage them to get involved in all of our bar associations, including DRI. On a certain level, I know that their success and accomplishment is a reflection on my firm and me and the other men and women in my firm who advance them.

What was the path you followed to make this an integral part of your own career?

As indicated above, I had my grandmother and mother (and an equally supportive Dad) as role models. (My Dad supported and encouraged my mother and my sister in their endeavors. My sister, Lisa Actor, is the VP of Development at the internationally famous Lowell Observatory in Arizona, so she is no slouch.) I also had Robert Wagner as my mentor and role model, and the promotion of women in law was a singular pursuit of his. Lastly, you cannot be a committed Daddy of Daughters and not want to promote women.

What is the most exciting aspect of your efforts to be a champion for women attorneys?

I am proud every day of the accomplishments of my daughters. I revel in the accomplishments of my female colleagues in my firm. Lastly, I am thrilled to watch the women I have encouraged go on to do great things. And, to their credit, they have been very kind to thank me at times when they have been honored.

What are your goals and plans as far as continued collaborative efforts, both at your law firm and in DRI, to retain and advance women attorneys professionally and grow the next generation of leaders in DRI?

All of the above.

Please share some tips/advice for other attorneys who aspire to be champions as far as efforts to retain and advance women attorneys in firms or in-house positions.

There is a Ted Talk by Drew Dudley entitled "Everyday Leadership" where he talks about the "lollipop moment." In a nutshell, a "lollipop moment" is a moment that we have all had when someone either intentionally or unintentionally said something to us that changed our life or gave us inspiration. I would encourage every DRI leader, male or female to watch Drew Dudley's Ted Talk. It will inspire you; it will produce a laugh and a tear; it will prompt you to remember the lollipop moments that others have given you; and, it should inspire you to intentionally provide lollipop moments to others. If you can adopt the frame of mind that everything you say or do may become someone's lollipop moment, then you will be a champion. Pretty simple.

John C. Trimble is the firm counsel and former managing partner of the 36 lawyer Indianapolis law firm of Lewis Wagner LLP. He is a member of DRI, IADC and FDCC and is a member and Past President of the Defense Trial Counsel of Indiana. John has received DRI's Fred H. Sievert Outstanding Defense Bar Leader Award, and has served on the DRI Board of Directors. He is the immediate past Chair of the DRI Law Practice Management Committee and is currently Vice Chair of the Law Practice Management Section of FDCC. He is also a recent past President of the Indianapolis Bar Association. John enjoys consulting and strategic planning for bar associations and law firms. His practice is devoted to the defense of catastrophic and complex claims in Indiana and elsewhere.