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The Voice

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This Week's Feature

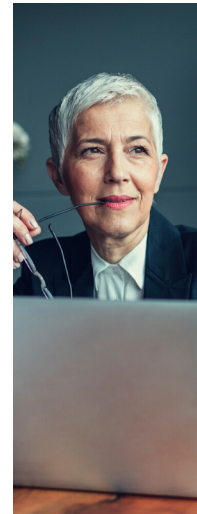


Liability Considerations for Manufacturers of Face Masks in the Age of COVID-19

By Brett A. Tarver, Wheaton Webb, and Victoria Alvarez

COVID-19 has created widespread shortages of face masks as many businesses and individuals have sought face masks to wear at work and outside the home. In response, the U.S. Food and Drug Administration (FDA) loosened the regulatory requirements for manufacturing these products, while the U.S. Department of Health and Human Services (HHS) issued a declaration protecting certain manufacturers of COVID-19 countermeasures from liability. Legal risks remain, and knowing about the federal guidelines, regulatory enforcement, and potential liability issues will aid in advising clients interested in manufacturing face masks.

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- New Developments in the World of Asbestos Science, July 22, 2020, 12:00–1:00 pm CDT
- Shaping the Law to Meet the Challenges of Advanced Driver Assistance Systems Litigation, July 28, 2020, 12:00–1:30 pm CDT

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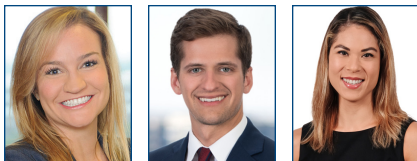
“Starting a novel is opening a door on a misty landscape; you can still see very little but you can smell the earth and feel the wind blowing.”

—[Iris Murdoch](#) (July 15, 1919–Feb. 8, 1999), *Under the Net*

This Week's Feature

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By Brett A. Tarver, Wheaton Webb, and Victoria Alvarez



COVID-19 has created widespread shortages of face masks as many businesses and individuals have

sought face masks to wear at work and outside the home. In response, the U.S. Food and Drug Administration (FDA) loosened the regulatory requirements for manufacturing these products, while the U.S. Department of Health and Human Services (HHS) issued a declaration protecting certain manufacturers of COVID-19 countermeasures from liability. Legal risks remain, and knowing about the federal guidelines, regulatory enforcement, and potential liability issues will aid in advising clients interested in manufacturing face masks.

Manufacturing Guidance from the FDA

Throughout the COVID-19 pandemic, the FDA has issued regularly updated guidance documents and letters of authorization on its enforcement policies for manufacturers of face masks. See, e.g., U.S. Food & Drug Admin., *Enforcement Policy for Face Masks and Respirators During the Coronavirus Disease (COVID-19) Public Health Emergency* (Revised) (May 2020) (Mask Guidance). These guidance documents were issued “to provide...polic[ies] to help expand the availability” of face masks, including guidance on how to manufacture and market these products without inciting FDA regulatory enforcement action. Mask Guidance, *supra*, at 1. Further, in response to the Centers for Disease Control and Prevention’s (CDC) recommendations that both health-care personnel and members of the public use face masks to cover their noses and mouths, the FDA issued a letter of authorization for the use of face masks. See U.S. Food & Drug Admin., Face Mask Letter of Authorization (Apr. 24, 2020) (Authorization Letter).

The FDA pronounced that “[f]ace masks...are devices when they are intended for a medical purpose, such as prevention of infectious disease transmission (including uses related to COVID-19).” Mask Guidance, *supra*, at 5. The FDA defines a face mask as “[a] mask...that covers the user’s nose and mouth and may or may not meet fluid barrier

or filtration efficiency levels.” *Id.* at 4. In its Authorization Letter, the FDA clarifies that “facemasks...are authorized to be used by [health-care personnel] only as source control” and “are authorized for use by the general public to cover their noses and mouths.” Authorization Letter, *supra*, at 2. Source control “refers to the use of a facemask or cloth face covering over the mouth and nose to contain that individual’s respiratory secretions to help prevent transmission from infected individuals who may or may not have symptoms of COVID-19.” Mask Guidance, *supra*, at 4.

Manufacturers of face masks intended to be used as source control will not be subject to FDA regulatory requirements as long as the product meets the following requirements:

1. “includes labeling that accurately describes the product as a face mask...and includes a list of the body contacting materials (which does not include any drugs or biologics)”;
2. “includes labeling that makes recommendations that would reduce sufficiently the risk of use, for example, recommendations against: use in any surgical setting or where significant exposure to liquid, bodily or other hazardous fluids, may be expected; use in a clinical setting where the infection risk level through inhalation exposure is high; and use in the presence of a high intensity heat source or flammable gas”; and
3. “is not intended for any use that would create an undue risk in light of the public health emergency, for example the labeling does not include uses for antimicrobial or antiviral protection or related uses or uses for infection prevention or reduction or related uses and does not include particulate filtration claims.”

Id. at 7.

If your client intends to produce face masks, it is critical that you stay abreast of the continuously updated guidance documents issued by the FDA and the CDC. This will help ensure that your client does not run afoul of any regulatory requirements and protects itself from liability through accurate product labeling.

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Health and Human Services Liability Immunity

A declaration granting liability immunity for “covered persons” that manufacture “covered countermeasures” issued by the HHS may provide liability protections for manufacturers of face masks. See Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19, 85 Fed. Reg. 15,198 (Mar. 17, 2020) (Declaration). The term “covered persons” is defined by the Public Readiness and Emergency Preparedness Act (PREP Act) to include “manufacturers” of “covered countermeasures.” See 42 U.S.C. § 247d-6d (i)(2) (B)(i). See *also* Declaration, 60 Fed. Reg. at 15,201.

“Covered countermeasures” include devices and “respiratory protective device[s]” intended to “prevent[] or mitigate COVID-19 or the transmission of SARS-CoV-2 or a virus mutating therefrom.” Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19, 85 Fed. Reg. 21,012, 21,014 (Amendment to Declaration). Covered countermeasures must be “‘qualified pandemic or epidemic products’...or devices authorized for investigational or emergency use, as those terms are defined in the PREP Act, the FD&C Act [Federal Food, Drug and Cosmetic Act], and the Public Health Service Act, or a[] respiratory protective device approved by NIOSH under 42 CFR part 84, or any successor regulations.” *Id.* Now that the FDA has put face masks used for source control under its emergency use authorization, there is a strong argument to be made that face masks manufactured and used for these purposes qualify as a “covered countermeasure.”

The immunity protects against all claims “under federal and state law...for loss caused by, arising out of, relating to, or resulting from the administration to or the use by an individual of a covered countermeasure.” Declaration, 60 Fed. Reg. at 15,199. This immunity applies to a variety of claims, including negligence in manufacturing, prescribing, or administering a covered countermeasure, and other liability claims, such as slip-and-fall accidents and vehicle collisions, when the alleged injury directly relates to countermeasure activities. Declaration, 60 Fed. Reg. at 15, 200. The only exception to this immunity is for losses caused by willful misconduct. See U.S. Dep’t of Health & Human Servs., [Prep Act Q&As](#), (Sept. 5, 2019).

Closing Thoughts

Despite the FDA and HHS’s actions to increase the availability of face masks by easing regulatory requirements and providing liability immunity, manufacturing these products is still heavily regulated and creates potential liability issues for the manufacturers. Staying informed on updates and changes to the recommendations will help you and your clients make wise decisions about these ever-changing requirements.

Brett A. Tarver is an associate at **Troutman Pepper LLP** in the Atlanta office. Her practice focuses on the defense of pharmaceutical and medical device manufacturers in product liability litigation. She has been trial counsel in numerous cases to verdict, and she is regarded as an up-and-coming trial lawyer in the defense of products. Ms. Tarver serves as a steering committee member of the DRI Young Lawyers Committee and is an active member of the DRI Drug and Medical Device and Product Liability Committees.

Victoria Alvarez is a litigation associate in the Charlotte office of **Troutman Pepper LLP**. She represents businesses big and small, from multinational corporations, to local partnerships. Ms. Alvarez is an experienced litigator with a background in complex matters ranging from breach of contract and fraud, to premises, retail, and product liability. She is a vice-chair of the Litigation Trial Practice Committee of the American Bar Association and a graduate of the ABA’s Leadership Academy, and she also serves on the Advisory Board for the Salvation Army of Greater Charlotte.

Wheaton Webb is a litigation associate in the Atlanta office of **Troutman Pepper LLP**. His practice includes general litigation matters with a focus on drug and medical device litigation. Before joining Troutman Pepper, Mr. Webb was a law clerk for the Honorable Tilman E. Self III in the U.S. District Court for the Middle District of Georgia. He is a member of the DRI Young Lawyers Committee.

The views expressed in this article do not necessarily reflect those of the law firm with which the authors are associated.

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Article of Note

A Digital Conversation with Author, Speaker, Podcast Host, Attorney Mentor and Educator, and High-Stakes Litigator Frank Ramos

By Larry Ebner



[Francisco “Frank” Ramos, Jr.](#), is incredibly dedicated to mentoring, educating, and promoting his fellow attorneys throughout the United States and globally, and in so doing, advancing the legal profession. Frank’s service as managing partner at [Clarke Silverglate PA](#) in Miami, where he participates in the firm’s high-end litigation practice, is just the beginning. He posts daily [LinkedIn practice and business pointers](#) for his more than 50,000 followers. He also has authored more than a dozen books, and edited others, on topics ranging from the legal process, to attorney marketing, to professional development of young lawyers, as well as published hundreds of articles for lawyers and business professionals. And Frank has recorded more than 90 podcasts in his [“A Conversation With...”](#) series with members of [DRI—The Voice of the Defense Bar](#).

Frank recently recorded [“A Conversation With...Larry Ebner”](#) about my 48-year legal career in Washington, D.C., why and how I launched my solo-practice, nationwide appellate litigation boutique, [Capital Appellate Advocacy PLLC](#), and my other professional interests, particularly my leadership roles with DRI’s Center for Law and Public Policy, Amicus Committee, and Appellate Advocacy Committee. I was anxious to reverse the flow of questions by asking Frank about his myriad activities on behalf of the defense bar and the broader legal profession. So I asked Frank to join me in the following “digital conversation.”

Larry Ebner: Frank, let’s start with the many podcasts that you have recorded with DRI members. How did you develop the idea for the podcasts?



Frank Ramos: Thank you Larry, for the kind words.

The birth of my DRI podcast, “A Conversation With...,” would be impossible to guess.

When my boys, who are now in college, were younger, we’d be in the car Saturday afternoons and would listen to a podcast titled *Here’s the Thing*, wherein Alec Baldwin was the host. The podcast began and ended with Miles Davis’s classic, [“So What,”](#) which may be one of the most iconic jazz tunes from arguably the most iconic jazz album ever, *Kind of Blue*. Whenever the horns in “So What”

blared in our car, I would tell my boys, both who wanted careers in music, that one day one of their tunes would be featured on a podcast. Years later I took my prediction as a promise and had my younger son, Michael, provide me the music from his original jazz tune, [“Leaves,”](#) and used his song for the podcast. So you see, it was never about the podcast for me. The podcast was a vehicle for my son’s music and to make a prediction into reality.

Larry Ebner: Nonetheless, the podcasts provide many insights by a terrific and varied collection of attorneys.

You also have authored more than a dozen books, and more than 300 articles. How did you develop your writing skills, where do you get your ideas for topics, and how did you become so prolific?

Frank Ramos: I started writing early in my legal career to prove to myself that I actually knew a thing or two about the practice. I was suffering from imposter syndrome, and I started writing “how-to” articles to see if I actually knew how to do things in the practice. Over the years, most of my writing has been process oriented—I define an issue, problem or concern, and then define the process to address it. All of my books are basically how-to or checklist-type books that address everything from personal strategic planning, to leadership, to marketing, to trying a case.

Larry Ebner: Where can I find a list of your books and essays, most of which I understand can be downloaded for free?

Frank Ramos: Right here:

- [Getting Published for Lawyers](#)
- [Social Media Musings—Part Two: My Reflections on the Practice and Life](#)
- [LinkedIn for Lawyers](#)
- “Mentoring Leaders,” in [Leadership for Lawyers](#)
- “Frank Ramos,” in [Owning the Room](#)
- [Be Your Own Life Coach](#)

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- [*Social Media Musings: My Reflections on the Practice and Life*](#)
- [*The Future of Law*](#)
- [*A Guide to Strategic Planning for State and Local Defense Organizations*](#), co-authored with John C. Trimble
- [*Go Motivate Yourself: Stop Chasing Gurus and Do the Hard Work*](#)
- [*Attorney Marketing 101*](#), coauthored with John Remsen, Jr.
- [*Training Your Law Firm Associates: Transforming Your Associates into Trial Lawyers*](#)
- [*The Associate's Handbook: A Resource for Aspiring Trial Lawyers*](#)

Larry Ebner: I know that you particularly enjoy mentoring younger attorneys. What are some of the best ways for us more senior lawyers to do that?

Frank Ramos: All senior lawyers should carve out time to mentor young lawyers. Mentor someone at your firm and find at least one lawyer outside your firm to mentor too. Speak with them monthly, either in person over coffee or via Zoom or by phone. It'll help them immensely.

Larry Ebner: I also am fascinated by your extensive use of LinkedIn. You even have written a book titled [*LinkedIn for Lawyers*](#). I myself recently interviewed digital marketing consultant [Nick Kosar](#) on [*How Lawyers Can Use LinkedIn to Promote Their Practices*](#). In what ways do you use LinkedIn, and how did you garner more than 50,000 LinkedIn followers?

Frank Ramos: I had tinkered with LinkedIn since 2007, but didn't get serious about the platform until the fall of 2016, when DRI released my book, [*The Associate's Handbook*](#), which was my advice about the practice for young lawyers, specifically how to prepare for and try a case. In the fall of 2016 I decided I was going to post every day—including weekends and holidays—and except on the rare occasion, I've stuck to that promise. When I started on this journey, I had about 2,000 followers. Now I have over 51,000. Posting daily over a long period of time will get you there.

Larry Ebner: You and I became acquainted through [DRI](#), which has nearly 18,000 civil defense bar members from around the United States and internationally. In addition to serving on DRI's board, you have contributed to that organization and its members in many ways. How have you

benefitted from your involvement with DRI, and also your prior service as president of the [Florida Defense Lawyers Association \(FDLA\)](#)?

Frank Ramos: I have made lifelong friends and have developed my skill set. DRI and FDLA have made me a better lawyer, better writer, better speaker, and just generally a better person.

Larry Ebner: We haven't yet discussed your legal practice. What does it entail?

Frank Ramos: My firm, [Clarke Silverglate](#), is firm focused on high-end litigation and bet-the-company cases. I practice in the areas of product liability, commercial, and employment litigation.

Larry Ebner: I understand that you serve as your firm's managing partner. Do you enjoy law firm management, and what trends do you see, especially in view of the pandemic?

Frank Ramos: I love serving as managing partner. I took over from [Spencer Silverglate](#), who now serves as the firm's president and chair. I think the pandemic taught us to embrace technology and has pushed all of us toward embracing the use of technology in our practices. That trend has been occurring for a while. The pandemic pressed the fast-forward button on that process.

Larry Ebner: Finally, how do you and your family enjoy spending your time outside of the legal world?

Frank Ramos: Both our boys are in college. Our older son, David, is graduating from Florida State University (FSU) in the fall with a degree in Music Education. He is laying the foundation to be an orchestral conductor. Our younger son, Michael, is a freshman at the University of Miami, where he is studying jazz performance. Before the pandemic, my wife, Ana, and I would spend evening watching him perform at local jazz joints.

Larry Ebner: Frank, thanks so much for participating in this digital conversation. What is the best way for readers to get in touch with you?

Frank Ramos: They can email me at framos@cspalaw.com or [follow me on LinkedIn](#). There, they can scroll down on my profile and download my publications for free.

Thanks so much for the opportunity, Larry. Stay well.

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COVID-19

Litigating in the Age of COVID

By John S. Guttmann, DRI National Director

In these uncertain and taxing times, litigation has changed temporarily. Has it slowed down? Not much, from what I have seen in my practice and those of colleagues at my firm. Our practice is national in scope, so we can see what is happening in a variety of federal and state courts across the country. Despite many changes, things have stayed the same in important respects. Courts are taking different approaches, but there are common elements. Here are a few observations on how judges, lawyers, and even court reporters are adopting to changed circumstances.

In general, as in normal times, most judges want counsel to do everything possible to keep moving cases along. Proactive judges are using the case management tools at their disposal to be sure that happens. Judges recognize that the virus is affecting the ability of parties to move forward with all discovery. In many cases, it is literally impossible for the parties to continue production of paper documents. As a result, some courts are focusing the parties' attention on electronic discovery and permitting them to defer production of paper files if necessary. This may require postponement of some or all depositions in a case, and result in an extension of overall discovery deadlines. Nevertheless, by phasing discovery and directing the parties to concentrate on the production of electronic files, the judge keeps the case moving. Doing so may shorten the overall extension that is ultimately required.

Proactive judges seem to be requiring more frequent check-ins by counsel. Judges who generally held status conferences in a particular case every six months may be holding them telephonically every four months. In other cases, we have seen judges who were scheduling conferences at three-month intervals, holding them every sixty days instead. In some instances, the courts are stating explicitly that the scheduling changes are intended to help them keep closer tabs on the cases to be sure they are moving forward. In others, that is not stated but the purpose seems clear nonetheless.

Depositions present particular challenges because of the understandable reluctance of both witnesses and counsel to appear. How big an impediment this reluctance is varies from place to place and over time. Some depositions are taking place via Zoom or on other electronic platforms. Many attorneys are resistant to such approaches. One concern is the need to provide the reporter and the deponent's counsel with exhibits in advance of the deposition. Court reporters recognize this issue. They are beginning to adapt. Some of the larger reporting companies now have technologies that enable them to hold exhibits back until the examining counsel is ready to show them to a witness. Here



is how it works. The attorney taking the deposition provides the complete set of exhibits to the reporter in advance of the deposition. Upon request, the reporter transmits a specific exhibit to the deponent's counsel and puts the exhibit up on a computer screen in front of the witness. While I personally have not employed this approach, reports are good. This is a technological adaptation that seems likely to continue post-COVID, at least to some degree, because it increases the

ability to take depositions without incurring the time and costs of travel. On the other hand—at least until people become familiar with using such an approach—it will take extra time, and lawyers operating under time limitations for depositions may be hesitant to use it absent stipulations to account for delays. Another obvious issue that can arise is the need for an additional exhibit that was not in the examining counsel's original plan for the deposition. Lawyers and court reporters are no doubt already figuring out how to work through these issues and others.

The courts are operating under the same constraints as counsel, their clients, and witnesses. As a result, status conferences, arguments, and even evidentiary hearings and a few trials are taking place via Zoom. To eliminate background noise, some judges are requiring counsel making argument to wear headphones equipped with microphones. In addition, some courts have one access

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system for counsel and their clients to log in to for hearings and an entirely separate system with no microphones for the public.

All in all, the courts and counsel are adjusting quickly and well to the unsettling circumstances in which we are currently living and operating.

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DRI Voices

Sick and Tired—and Proud

By Stacy L. Douglas



My name is Stacy Lynne Douglas. I am the daughter of Dr. Clarence Everett Douglas and Mary Kearney Douglas. My father was born in 1928 and raised in Jefferson, Texas, a small town located in East Texas. My father served his country in the United States Army. My father served a country he watched lynch people simply because they looked like him; he served a country that denied him the right to sit at the front of the bus; he served a country that denied him the right to vote; he served a country that denied him the right to attend integrated schools and the liberty to drink water out of a fountain reserved for whites. Despite all this, my father served this country.

After leaving the Army, my father put himself through college (Southern University, a historically black college) and medical school (Meharry Medical College, another historically black school). After he graduated from medical school and relocated to Iowa to do his internship at Mercy Hospital in Cedar Rapids, Iowa, my father met my mother (who, like my father, was also born and raised in a small town, Clutier, Iowa). Their amazing love story, which took exception to the notion that interracial marriage was illegal, is for another day. I am sure you can imagine, it comes with its own host of discrimination, prejudice, and disapproval.

In 1958, my father was approached about replacing a doctor retiring from a small farming community in Iowa, an area with a population of about 2,600–3,000 and an all-white community. For most people, the chance to replace a doctor with an already existing and thriving medical practice would have been the opportunity of a lifetime—one that they would jump at without second thoughts. However, my father did not have that luxury. He had to think long and hard about how—and if—he could survive in this community as the town's only black man.

Because of these concerns, when my father first considered assuming this practice, he met with the wealthier leaders in the community and secured their financial investment in his practice. He would come and serve as the doctor for this community only if the powerful influencers in the area were financially tied to the success of his practice. This was the business savvy of a man who had experienced racism front and center and knew that without the support

of influential community leaders, he would never obtain the support of the broader white community.

My father spent 33 years in this small town and became a pillar in the community, including serving as president of the school board. He was recognized statewide for his contributions to the athletic teams in Iowa and ultimately had the local football field named after him. It was a journey, and it was not always easy, especially for the black children he raised in that town. The children of Dr. Douglas would hear negative references to black people, the casual use of the word “nigger,” and were often bullied by their peers and made to feel like outcasts. Paradoxically, all this was being done to the children while the community unconditionally loved and supported “Doc.” Despite all the negative experiences, it was also a special upbringing: special because there was family, there was love, there were amazing parents, and there were true friendships. When you grow up a small community like this, the real friendships are incomparable and last a lifetime. However, you also learn to see much more clearly the not-so-real friendships: the people secretly hiding their disdain for your race.

I say all this because last week I read my dear friend [Ricardo Wood's installment](#), where he eloquently voiced his concerns as a Black Man in America. As I read it, all I could think was, “I am tired,” “I am exhausted,” “I am worn out,” “I am spent,” “I am enervated.” If I am being truly honest and keeping it real, the truth of the matter is that I am not simply tired—I am sick and tired.

I am sick and tired of turning on the news and hearing about another black life lost. I am sick and tired of the constant reminder that the lives of my beautiful black Kings and Queens do not hold the same value as a white life. I am sick and tired of the delays associated with the filing of charges when these murders take place and sick and tired of the lives lost where charges are never filed.

I am sick and tired of the double standard in criminal investigations. I am sick and tired of my black family being “guilty until proven innocent.” I am sick and tired of crimes such as “driving while black” and “running while black.” I am sick and tired of innocent black boys and girls, our beautiful babies, being taken too soon because they appear suspicious in a neighborhood they actually live in.

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I am sick and tired of worrying about my husband every time he leaves home. I am sick and tired of the anxiety I feel when my cousins call me and I worry, before answering, that there is some bad news coming from the phone. I am sick and tired of law enforcement treating my family differently from how they treat the neighbors. I am sick and tired of people making assumptions about my family based upon the color of our skin.

I am sick and tired of looking at my children and wondering what challenges they will face because of their brown skin. I am sick and tired of worrying about my children getting their driver's licenses, not because I fear their inexperience will cause an accident, but because their skin color will cause them to meet their fate at the hands of police. I am sick and tired of teaching the severity of this country's history of race and discrimination to my young children because the school systems do not take it as seriously as they should.

I am sick and tired of explaining why #BlackLivesMatter does not equate to "Black Lives Matter More." I am sick and tired of hearing about the criminal records of the black men murdered by men sworn to serve and protect them. I am sick and tired of seeing the senseless social media posts mocking the tragedies the belie the beautiful black souls that have been murdered.

I am sick and tired of the hypocrisy. Please do not tell me you have a black friend, and then equate that with the notion that you cannot be racist or prejudice. Please do not tell me that #WhiteLivesMatter as if that was ever in doubt, or that #AllLivesMatter, while being unwilling to affirm that #BlackLivesMatter. Please do not tell me that police need protection and then show me the one video you searched forever and a day to find on the internet of a police officer losing his life to a black man or woman. I do not support that loss of life, so please do not insult my intelligence or my integrity by implying that comparison pertains to the movement I support.

I am sick and tired of educating people on racism, discrimination, prejudice, and hate. I am sick and tired of constantly explaining my viewpoint. I am sick and tired of having to convince people what is clearly wrong is wrong. I am sick and tired of people who, despite the clear video evidence, are not willing to say that George Floyd's death was wrong. I am sick and tired of being challenged about affirmative action. I am sick and tired of explaining why women of color face similar, yet more difficult challenges, than those of white women.

I am sick and tired of the disparity in this country relative to healthcare for my brother and sisters versus that of White America. I am sick and tired of my people dying at a faster rate than their white counterparts because of the color of their skin. I am sick and tired of the stereotypes that black people cannot escape no matter how many serve their country, get degrees, excel in good jobs, buy homes, raise productive children, or become president.

I am sick and tired of not being allowed into places that have met their "quota" for black people. I am sick and tired of people assuming I cannot afford to buy something I can.

I am sick and tired of being treated, like my father was, as a token Negro.

However, regardless of how sick and tired I am or how much more I may become in the future, like my father, I will never be sick and tired of being Black. Words cannot express the love I have for my Blackness. I am part of a community that is always there to pick me up when I fall. I am part of a community that has demonstrated extraordinary resilience and I feel grateful to come from a people who endured and continue to endure tragedy while fighting for what is right with grace. I love the undeniable historical influence my community has had on music, art, dance, and food. I love the unspoken understanding when I walk down the street that I must acknowledge any brother or sister of mine I see, as a sign of solidarity and respect for who we are and where we come from. My strength comes from my Blackness. My compassion for others comes from my Blackness. My drive and ambition comes from my Blackness. It is my safe space—a where space I can let down my guard and be me without fear of retribution. For me, being Black is a privilege, an honor, and the best gift in life I have ever received.

In memory of Dr. Clarence Everett Douglas (1928–1996)

Stacy L. Douglas is a partner in the Los Angeles office of **Collinson Daenke Inlow & Greco (CDIG)**, a female-owned law firm. Formerly a partner in a majority-owned national firm, Stacy joined her female colleagues at CDIG, a firm serving Los Angeles, Las Vegas, and Northern California, to expand the presence of female litigators in the profession. Stacy has successfully taken cases to trial, focusing on transportation, commercial litigation, and employment matters. She is vice chair of the DRI Diversity and Inclusion Committee.

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Member News

S-E-A Extends Investigations to Include COVID-19

DRI corporate member **S-E-A's** industrial hygienists have created a specialized COVID-19 team to inspect, evaluate, and sample a variety of facilities for the contagion. The team consisting of toxicologists, pharmacologists, biomedical consultants, immunologists, and virologists is available from the forensic engineering firm locations across the country to conduct microbial inspections and testing in hotels, gyms, restaurants, manufacturing plants, and offices.

Within the S-E-A analytical laboratory, the team has developed detecting capabilities for live SARS-CoV-2 virus using RT-qPCR (reverse transcription, quantitative polymerase chain reaction) with CDC-approved testing protocols. These protocols will allow the industrial hygienists to provide COVID-19 analysis at the time of sampling.

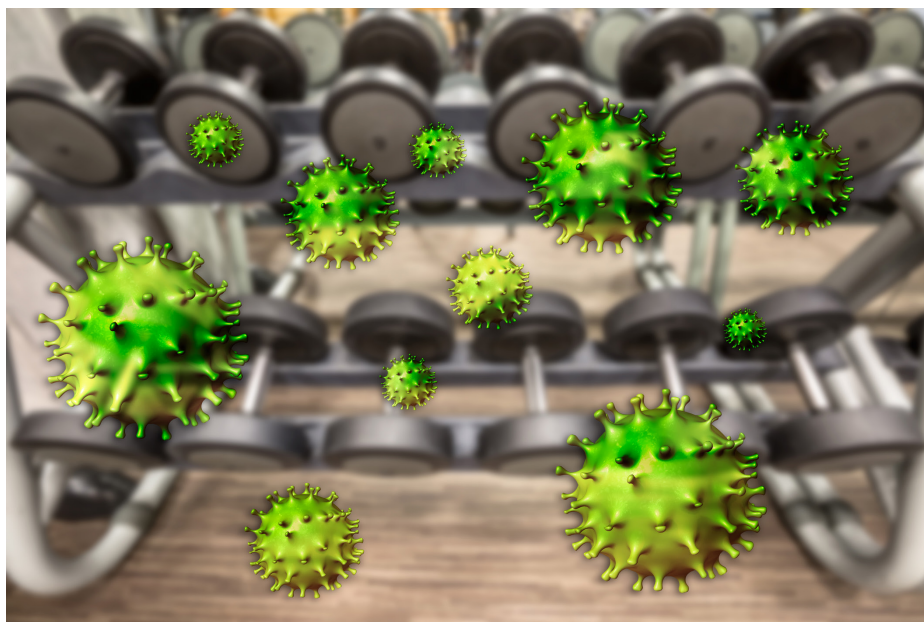
“Obviously, this is a very stressful time for most people in their personal and business lives. As we begin to return to work, it is imperative the environment be as safe as

possible. We are proud that our scientists and technical support staff have created these important COVID-19 tests,” stated Jason Baker, S-E-A CEO.



S-E-A is headquartered on a recently opened 50-acre campus, in Columbus, Ohio, in a 110,000 sq. ft. office/testing complex with multiple onsite testing capabilities. In addition to the Columbus location, S-E-A has 11 other offices across the United States and employs over 350 people, including engineers and technicians who provide scientific expert analysis for a wide range of services to reveal the cause of vehicle, product, material, fire, electrical, or structural failures and to mitigate the risks involved with new product introductions. The health sciences

practice conducts testing on medical devices, compounds, and virologics. Many of S-E-A's highly experienced specialists have served nationally and internationally as analytical litigation experts. For additional information, please visit the S-E-A website: SEAlimited.com.

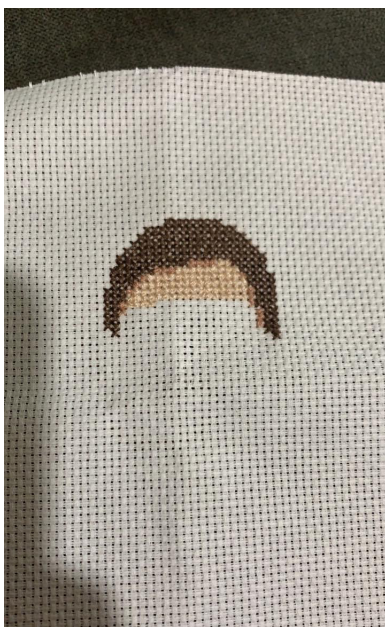

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DRI Cares

Crafting in Support of the Innocence Project

COVID-19 has given many of us time to explore new talents. For some, it is cooking; for others, it is exploring their creative sides. For DRI member [Melissa Roeder](#), it was teaching herself how to cross stitch—and what better challenge than stitching the **Notorious RBG**! Through trial and error, Melissa exceeded her expectations and RBG surprisingly looked very much like RBG with the signature

glasses and dissent collar. Melissa took her project one step further and auctioned off her cross stitch project and raised \$2,750 for the [Innocence Project](#). DRI member **Grace Hurney** was the lucky winner, and we understand Grace will be putting her RBG cross stitch next to her RBG action figure. Congratulations, Grace! And thank you to all who helped raise money for the Innocence Project.



IDC Announces New Leaders, Award Recipients

Denise Baker-Seal of **Brown & James, P.C.**, in Belleville, Illinois, was elected 2020–2021 **Illinois Association of Defense Counsel** (IDC) Secretary/Treasurer and to a position on the executive committee at the IDC Annual Meeting held June 19, 2020. Ms. Baker-Seal will move up the executive committee ladder to become president in June 2024.

Other officers on the executive committee include President **Nicole D. Milos** of AAIS, Lisle; President-Elect **Laura K. Beasley** of Baker Sterchi Cowden & Rice LLC, Belleville; First Vice President **Terry Fox** of Flaherty & Youngerman, P.C., Chicago; and Second Vice President **Tracy Stevenson** of The Law Offices of Tracy E. Stevenson, P.C., Chicago.

The following members were elected to three-year terms on the IDC Board of Directors: **C. Wm. Busse, Jr.** of Busse & Busse, P.C., Chicago; **James P. DuChateau** of HeplerBroom LLC, Chicago; **John P. Heil, Jr.** of Heyl, Royster, Voelker & Allen, Peoria; **David A. Herman**, Giffin, Winning, Cohen & Bodewes, P.C., Springfield; and **Gregory W. Odom**, Baker Sterchi Cowden & Rice LLC, Belleville.

Jessica Holliday of Brown & James, P.C., Belleville was appointed to fill the board position left vacant when **Denise Baker-Seal** was elected secretary/treasurer. **Untress “Trez” Quinn, Sr.** of Armstrong Teasdale, LLP, St. Louis,

was appointed to fill a vacant board position and **Jaime Padgett** of Uber, Chicago, was appointed to serve as a director at large.

Awards and Recognitions

William K. McVisk of Tressler LLP, Chicago, was recognized during the IDC Annual Meeting with the DRI Exceptional Performance Citation by DRI Regional Director **Mark Fredrickson** of Lind, Jensen, Sullivan & Peterson, P.A., Minneapolis. This citation recognizes Mr. McVisk for supporting and improving the standards of education of the defense bar and for contributing to the improvement of the administration of justice in the public interest.

In addition, **Donald Patrick Eckler** of Pretzel & Stouffer, Chartered, Chicago, has been selected to receive the 2020 IDC Distinguished Member Award. **Jessica Holliday** of Brown & James, P.C., Belleville, is the 2020 recipient of the Rising Star Award. **Steve Grossi** of Bruce Farrel Dorn & Associates in Chicago was honored with the President’s Award. **R. Mark Cosimini** of Rusin & Maciorowski in Campaign has been named the 2020 Volunteer of the Year. And finally, **Craig L. Unrath** of Heyl, Royster, Voelker & Allen, Peoria, and **John F. Watson** of Craig & Craig, LLC, Mattoon, were honored with the President’s Commendation.



Denise Baker-Seal



Nicole D. Milos



Laura K. Beasley



Terry Fox



Tracy Stevenson

Upcoming Webinars

COVID-19 and Its Effects on Communities of Color, July 16, 2020, 12:00–1:00 pm CDT



This webinar will discuss COVID-19 and its disproportionate effect on people of color and what can and should be done to address this issue. Attendees will discuss what workers on the front lines faced during the pandemic and clinical observations as they pertain to communities of color. [Click here](#) to register.

New Developments in the World of Asbestos Science, July 22, 2020, 12:00–1:00 pm CDT



This webinar will cover new insights into the world of asbestos science. Experts will discuss recent developments, scientific findings, and the regulatory stance on this topic. The program is recommended for attorneys and claims professionals involved in mesothelioma, talc, and general toxic tort claims. [Click here](#) to register.

Shaping the Law to Meet the Challenges of Advanced Driver Assistance Systems Litigation, July 28, 2020, 12:00–1:30 pm CDT



The presentation will discuss two types of advanced driver assistance systems (ADAS) cases: (1) those in which the plaintiff argues that the vehicle should have been equipped with ADAS sooner, and (2) those in which the plaintiff argues that ADAS should have performed better. When it comes to these cases, many authors and presenters on this topic have argued that the same legal defenses should apply in the same way as they always have.

This presentation will use *Dashi v. Nissan N. Am., Inc.*, 247 Ariz. 56, 445 P.3d 13 (Ariz. Ct. App. 2019), *review denied* (Jan. 7, 2020), as a jumping off point to discuss using novel applications of established legal theories to meet the challenges of ADAS cases. Rather than applying the same defenses in the same way, this presentation will suggest that the law needs to be shaped to meet the technology that will inevitably change the way that we drive. [Click here](#) to register.

DRI Membership—Did You Know...

Your CLE and Marketing Professionals Now Have a DRI Membership Option!

Now more than ever, law firm marketing and CLE professionals face increasing demands to demonstrate firm value to clients and provide business development opportunities for their firms.

“Investing is laying out money now to get more money back in the future.”

—Warren Buffett

DRI's affiliate membership was created for CLE and marketing professionals* who work for defense-oriented law firms of all sizes.

Affiliate membership provides access to the professionals, business development opportunities, and programs of DRI. More importantly, membership provides a forum to discuss the challenges, opportunities, and solutions facing legal teams today and in the future.

Annual dues are just \$125. Here is the link to the [Affiliate Membership Application](#).

Affiliate members receive the following membership benefits:

- access to *For The Defense* (FTD);
- access to *The Voice*—DRI's weekly e-newsletter;
- discounts on educational products and seminars;
- membership in substantive law committees (at no charge); and
- access to members-only discount programs.

Affiliate members are not eligible for DRI leadership positions. Membership does not include access to the following resources: LegalPoint, Expert Witness Services, *In-House Defense Quarterly*, and committee e-newsletters.

Please note that the affiliate program is only available to those professionals of firms/companies with DRI members in good standing.

* Law Firm Marketing Chief Marketing Officers/Directors/Managers/CLE Directors/Managers

New Member Spotlight

Maria Paige Brekke, Bassford Remele



[Maria Paige Brekke](#) practices at the **Bassford Remele** law firm in Minneapolis, Minnesota. She focuses her practice in the areas of commercial litigation, product liability litigation, intellectual property litigation, and trust and estates litigation. Before joining Bassford Remele, Ms. Brekke served as a law clerk for the Minnesota Supreme Court for Justice Natalie E. Hudson and Justice Margaret H. Chutich.

Ms. Brekke graduated *magna cum laude* from the University of Minnesota Law School. She is the co-chair of Minnesota Woman Lawyers New Lawyers' group, RISE. Ms. Brekke volunteers as a pro bono attorney for the National Immigrant Justice Center. Outside of work, she is a member of the Loft Literary Center and a volunteer for the Minnesota 4-H program.

Quote of the Week

"Starting a novel is opening a door on a misty landscape; you can still see very little but you can smell the earth and feel the wind blowing."

—[Iris Murdoch](#) (July 15, 1919–Feb. 8, 1999), *Under the Net*