


eighth annual
 **Legal Malpractice
&
Risk Management**
conference

March 4 – 6, 2009

The Westin Chicago River North
320 North Dearborn Street
Chicago

Attend the **nation's premier** annual event
focused on current and important **developments**
in the law and litigation of **malpractice claims**,
legal malpractice insurance and
risk management strategies

Register Today at www.LMRM.com!

Entire Conference – March 4 – 6, 2009

or for Legal Malpractice Sessions Only – March 4 – 5
Risk Management Sessions Only – March 5 – 6

Earn up to 13.75 hours of CLE credit, including up to 5.50 hours of Ethics credit!

Conference Sponsors



THOMSON REUTERS



Event Sponsors



Welcome Message

AS the co-chairs of the Legal Malpractice & Risk Management Conference, we are honored to present the Eighth Annual Conference focused on current and important developments in the law and litigation of malpractice claims, legal malpractice insurance and risk management strategies.

The 2009 Legal Malpractice & Risk Management Conference offers interactive panels comprised of leaders in their respective fields, from professional liability practitioners and law firm general counsel to insurance professionals. Each panel will provide a comprehensive examination of current developments with an emphasis on recent legal decisions.

We are also pleased to have a thought provoking keynote address by John H. Johnson, IV, Vice President of National Economic Research Associates, Inc. He will discuss the debate over the billable hour and will explain why the current law firm billing and profitability model doesn't work for firms and clients.

We also want to acknowledge the continuing support of the conference and event sponsors, who have enabled us to provide the highest quality program at an affordable cost.

Please take a moment to register today at www.LMRM.com. We look forward to seeing you at the conference in March.

Ronald E. Mallen
Conference Chairman

David M. Schultz
2009 Program Chairman

Thomas P. McGarry
Chair, Lawyers for the
Profession® Practice Group

Who Should Attend?

- Professional Liability Practitioners
- Law Firm General Counsel and Managing Partners
- In-House Corporate Counsel
- Legal Malpractice Insurance Professionals
- Any Practicing Lawyer concerned about Risk Management in the practice of Law

Special Conference Events

Welcome Reception

March 3

Kick off the conference by mingling with other guests at the complimentary Welcome Reception in the Ember Grille at The Westin Chicago River North from 6:00 p.m. to 8:00 p.m.

Sponsored by Liberty International Underwriters

Conference Dinner

March 4

Join us for a special conference dinner at 6:30 p.m. at Brasserie Jo, Chicago's only authentic French brasserie and winner of the 2006 James Beard Award for "best new restaurant in the U.S." Brasserie Jo is a short walk from the Hotel at 59 West Hubbard Street.

Sponsored by Chubb

Keynote Luncheon

March 5



John H. Johnson, IV, Vice President of National Economic Research Associates, Inc. will discuss the continuing debate over the legal profession's billable hour. He will explore and examine why the law firm billing and profitability model doesn't work for firms and clients in today's marketplace.

His research underlies the new initiative by the Association of Corporate Counsel (ACC).

Lunch sponsored by Lockton

Conference Schedule

Tuesday, March 3, 2009

6:00 p.m. – 8:00 p.m.

Wednesday, March 4, 2009

8:00 a.m. – 9:00 a.m.

Welcome Reception

The Westin Chicago River North, Ember Grille

Sponsored by Liberty International Underwriters

Registration and Continental Breakfast

Promenade Ballroom

Sponsored by InOutsource, Inc.

Legal Malpractice Sessions Commence in the Grand Ballroom

9:00 a.m. – 9:20 a.m.

Conference Chairman: Ronald E. Mallen

9:20 a.m. – 10:20 a.m.

Panel Moderator: John W. Sheller

Speakers: Charles A. Gilman
John K. Villa

Introduction

The Year in Review

Guess Where You Are Being Sued – Bankruptcy Court

Bankruptcy trustees are bringing many financially significant lawsuits against major law firms. This panel of experienced trial lawyers will examine the recent decisions and discuss what you need to know to litigate these claims. The developing issue of who has standing to sue and for what remedies will be discussed. Many recent decisions concern whether the trustee can pursue legal theories of deepening insolvency, as well as aiding and abetting a fiduciary breach. Litigation considerations involve whose interests the trustee can represent, the right to a jury trial, the attorney-client privilege and defenses, such as in *pari delicto* defense and the Wagoner doctrine.

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Your colleague can't attend the conference?

Tell him or her that the panels will be aired live on WestLegalEdcenter's website for CLE credit. To register for the audio webcasts, please visit www.westlegaledcenter.com. Once on the site, use the drop-down menu under "Content Partners" and select "Lawyers for the Profession®" to see the full listing of programs.

Conference Schedule

10:20 a.m. – 11:15 a.m.

Panel Moderator: James I. Sullivan

Speakers: David J. Beck
Nancy Jane Marshall

11:15 a.m. – 11:30 a.m.

11:30 a.m. – 12:30 p.m.

Panel Moderator: Frances M. O'Meara

Speakers: Robert C. Baker
W. William Hodes

12:30 p.m. – 1:45 p.m.

1:45 p.m. – 2:45 p.m.

Panel Moderator: David A. Grossbaum

Speakers: Jeffrey Goode
Robert Irish

What You Need to Know About Developments in Litigating Legal Malpractice Claims

This panel of trial lawyers will examine the significant new case law of the past year, including decisions debating when federal courts have subject matter jurisdiction irrespective of diversity. The panel will provide an update on the use of lawyer-defendant "admissions" and how ethics rules can be used in actions against lawyers. A potentially significant decision that Federal Rule 408 bars admissibility of settlement evidence for measure of damages, even if invoked for the benefit of a settling party, will also be analyzed. While discussing all of these decisions and their implications in context of relevant legal issues and tactical concerns, the panel will provide practical guidance for the litigator.

Break

Beyond the Basics – Selecting and Using Expert Witnesses

Experienced trial lawyers and expert witnesses will examine recent case law and trends, and provide insight into the use and selection of expert witnesses. The panel will opine about whether expert witnesses can and/or should be used for summary judgment, the type of issues that demand expert testimony and which testimony the court is likely to preclude. They will tell how the testimony should be structured to avoid legal conclusions and net opinions, and when an expert can testify to issues of law. Finally, they will share their insights for selecting the right expert.

Conference Lunch

Promenade Ballroom

Sponsored by Integration Appliance, Inc.

Insurance Law – Prior Knowledge and Additional Negligence Claims

Prior knowledge issues dominated the preceding year's professional liability coverage decisions. Consistent with prior cases, some of the decisions used an objective standard, finding that the insured's knowledge of his own wrongful conduct precluded coverage. Other decisions, which concerned insureds that settled claims with their former clients and did not report these until those settlements collapsed, came to opposite conclusions as to coverage. The panel will discuss these recent cases, which also show that courts are still using a subjective standard based on the particular wording of application questions. Additionally, the difference between a claim and a potential claim remains unsettled. The panel will discuss how the courts ruled on the obligations of a carrier to inform its insured when their right to hire independent counsel arises, and what happens when a negligence claim is intertwined with a non-covered claim involving misappropriation of client's funds.

Conference Schedule

2:45 p.m. – 3:45 p.m.

Panel Moderator: David M. Schultz

Speakers: Mark E. Ellis
Barbara A. Sinsley

3:45 p.m. – 4:00 p.m.

4:00 p.m. – 4:45 p.m.

Panel Moderator: J. Richard Supple, Jr.

Speakers: James J. Grogan
Ellen A. Pansky

4:45 p.m. – 5:30 p.m.

Panel Moderator: Peter R. Jarvis

6:30 p.m.

Statutory Causes of Action – Consumer Protection Statutes

Claimants continue to pursue remedies against attorneys under a variety of consumer protection statutes because of provisions for multiplied damages, penalties or an entitlement to attorneys' fees. In the past year, there have been important decisions under Pennsylvania's Consumer Protection Act, Florida's Driver's Privacy Protection Act and the Federal Telephone Consumer Protection Act. The panel will review these decisions as well as the significant legal developments under the Federal Fair Debt Collection Practices Act, including whether the statute's bona fide error defense applies to "mistakes of law" committed by attorneys. Finally, the panel will discuss the trends under these and other statutory causes of action.

Break

Can I Say What Really Happened?

Many legal malpractice policies provide for a defense for disciplinary matters and, frequently, legal malpractice claims are accompanied by disciplinary complaints that may be made for tactical purposes. This panel examines that interface as well as trends in disciplinary law. The panelists will discuss what happens when a lawyer's personal fitness is the focus in a disciplinary case, and why some disciplinary prosecutors and courts are looking to use privilege, estoppel or other exclusionary doctrines to prevent lawyers from articulating a defense to charges of unethical conduct. The panel will explore the often-conflicting trends and developments in this area and evaluate the risk of a lawyer being prevented from defending himself or herself against charges of misconduct.

Stump the Panel

Members of the audience have an opportunity to engage in a "Q&A" dialogue with the panelists as they attempt to answer questions concerning legal malpractice or risk management. Take your best shot on your complex issues – everything is fair game.

Conference Dinner

Brasserie Jo, 59 West Hubbard Street

Sponsored by Chubb

Earn up to 13.75 hours of CLE credit, including up to 5.50 hours of Ethics credit.

CLE accreditation forms for all states will be available at the conference registration desk. To help ensure that you receive credit, please have your state bar association number with you to complete your accreditation form. Earn up to 13.75 hours of CLE credit, including up to 5.50 hours of Ethics credit, by attending the entire conference.

Conference Schedule

Thursday, March 5, 2009

8:00 a.m. – 9:00 a.m.

Continental Breakfast

Promenade Ballroom

Sponsored by Elite, a Thompson Reuters business

Legal Malpractice / Risk Management Cross-Over Topics Commence in Grand Ballroom

9:00 a.m. – 10:00 a.m.

Panel Moderator: Thomas P. McGarry

Speakers: Pamela A. Bresnahan
John J. Steele

In the Spotlight – The Exposure of Patent Lawyers

Litigators and risk management lawyers examine the very recent and unsettled case law that confronts patent lawyers and their insurers. A state – federal battle line has been drawn on whether patent law issues in legal malpractice cases can be litigated in state courts. The often highly speculative nature of damages has been examined by several courts with highly divergent conclusions. This experienced panel of legal malpractice litigators will examine these and other developing issues.

10:00 a.m. – 10:15 a.m.

Break

10:15 a.m. – 11:30 a.m.

Panel Moderator: Victoria L. Orze

Speakers: Janet M. Henderson
Kim Pihlstrom

The Insurance Marketplace

This panel will review the present state of the LPL insurance marketplace, 2008 overall results and how current economic conditions will impact the availability and cost of LPL insurance. Many are saying that the market is softening. Is it and in what respect? The panelists will also discuss hard-to-place coverage areas, such as intellectual property, including how these “hot to handle” law firms manage their exposure and the options available to them in the traditional and nontraditional marketplace.

11:30 a.m. – 12:30 p.m.

Panel Moderator: Thomas L. Browne

Speakers: Martin S. Checov
Joseph W. E. Schmitt

How to Mitigate Your Damage Exposure as a Defendant

Law firms, when defendants, must be alert to opportunities to reduce or even eliminate damage exposure. Reducing such exposure also requires an awareness of the techniques, and timely corrective or mitigating action. Relying on an unmotivated or unsophisticated legal malpractice claimant to take such action is an uncertain proposition, at best. This panel will discuss alternatives to passive file management by exploring various active measures that may be taken to reduce loss, such as self-help, intervention and take-over.

Conference Schedule

12:30 p.m. – 1:45 p.m.

Keynote Speaker: John H. Johnson, IV

Keynote Luncheon

Promenade Ballroom

The Debate Over the Billable Hour: A Rigorous Look at Competing Law Firm Profitability Models

John H. Johnson, IV, Vice President of National Economic Research Associates, Inc. will discuss the continuing debate over the legal profession's billable hour. He will explore and examine why the law firm billing and profitability model doesn't work for firms and clients in today's marketplace. His research underlies the new initiative by the Association of Corporate Counsel (ACC).

Lunch Sponsored by Lockton

Risk Management Sessions Commence in Grand Ballroom

1:45 p.m. – 3:15 p.m.

Panel Moderator: Edward J. Zulkey

Speakers: Hope A. Comisky
Kevin S. Rosen

The General Counsel Forum

In response to suggestions by our attendees, this year we present a forum for law firm general counsel and risk management lawyers to explore topics of interest specific to their role and responsibilities. Issues covered by this panel of general counsel will be derived from topics and questions submitted in advance by conference attendees and advisors. Attendees of this session will also be encouraged to introduce additional topics for general discussion.

3:15 p.m. – 3:30 p.m.

Break

3:30 p.m. – 4:30 p.m.

Panel Moderator: David P. Hartnett

Speakers: Robert B. Gould
Elliot R. Schiff

Plaintiff's Perspective – Red Flags and Selection Criteria

Did you ever wonder "how did this case get into that lawyer's hands?" This panel comprised of plaintiff-side legal malpractice lawyers will explore the selection criteria and potential "red flags" that plaintiffs' lawyers may consider when taking a case. They will discuss issues and concepts such as "splitting the seams," covered versus uncovered claims, concomitant disciplinary proceedings, impact of potential breach of fiduciary duties, size and certainty of damages, consumer protection, collectability, lack of insurance, defendant's reputation, necessary experts, prior counsel, as well the potential fee and costs arrangements. This panel is sure to provide a provocative interactive forum.

Register Online Today at www.LMRM.com or Call 312-704-3329 to Register Via Phone

Conference Schedule

Friday, March 6, 2009

8:00 a.m. – 9:00 a.m.

Continental Breakfast

Promenade Ballroom

Sponsored by Legalbill

9:00 a.m. – 10:00 a.m.

Panel Moderator: Michael P. Downey

Speakers: Micah Buchdahl
Lucian T. Pera

Risk Management and Electronic Advertising – Websites and E-mail

The Internet allows lawyers and firms to send marketing messages to potential clients around the world. But such outreach creates potential problems as lawyers broaden their reach and strengthen their message to try to gain and retain clients. In this session, panelists will examine what lawyers are doing on the Internet, and how such activities create problems, including risking client confidences, impacting standards of care, creating potential liability that can be litigated in distant jurisdiction, and providing evidence against firms at trial.

10:00 a.m. – 11:00 a.m.

Panel Moderator: Peter R. Jarvis

Speakers: James M. Bergin
Kelly M. Firment
Ronald C. Minkoff

Going, Going, Gone: Lawyers Who Leave and the Firms Left Behind

Sometimes, it seems that the number of lawyers changing firms on any one day exceeds the number of arrivals and departures at any airport. Every firm on the arriving or departing end of this process needs to strike a delicate balance between the rights and expectations of clients on the one hand, and the rights and ethical duties of individual lawyers and firms on the other. This panel will speak from experience about the available options and the consequences for those concerned.

11:00 a.m. – 12:00 p.m.

Panel Moderator: Anthony E. Davis

Speakers: Michael Roster
Kirk A. Swanson

On the Horizon – MJP, Alternative Business Structures, and Alternative Billing Law

Momentous changes are on the horizon that may forever alter the way professional services are delivered. With a focus on legal services, this panel will look at three potentially paradigmatic changes: MJP – the continuing movement toward a licensure structure for lawyers that permits law practice across state lines; the implications of the Legal Services Act 2007 for American law firms if U.S. licensure rules do not change; and, the new client driven movement toward alternative billing structures – whether and why the breeze of the past may become a hurricane, and what will be left of the traditional law firm model if it does. The panel will invite extensive audience involvement in the discussion.

Conference Speakers at a Glance

Robert C. Baker

Member
Baker Keener & Nahra, LLP

David J. Beck

Partner
Beck, Redden & Secrest, LLP

James M. Bergin

Partner
Morrison & Foerster LLP

Pamela A. Bresnahan

Partner
Vorys, Sater, Seymour and Pease LLP

Thomas L. Browne

Partner and General Counsel
Hinshaw & Culbertson LLP

Micah Buchdahl

President
HTMLawyers, Inc.

Martin S. Checov

Partner and General Counsel
O'Melveny & Myers LLP

Hope A. Comisky

Partner and Professional
Responsibility Counsel
Pepper Hamilton, LLP

Anthony E. Davis

Partner
Hinshaw & Culbertson LLP

Michael P. Downey

Partner
Hinshaw & Culbertson LLP

Mark E. Ellis

Partner
**Ellis, Coleman, Poirier,
Lavoie & Steinheimer LLP**

Kelly M. Firment

Senior Associate General Counsel
Manatt, Phelps & Phillips, LLP

Charles A. Gilman

Partner
Cahill Gordon & Reindel LLP

Jeffrey Goode

Vice President Claims
XL Select Professional

Robert B. Gould

Attorney at Law
The Law Offices of Robert B. Gould

James J. Grogan

Deputy Administrator and Chief Counsel
**Illinois Attorney Registration &
Disciplinary Commission**

David A. Grossbaum

Partner
Hinshaw & Culbertson LLP

David P. Hartnett

Partner
Hinshaw & Culbertson LLP

Janet M. Henderson

North American Professional
Liability Underwriter
Brit Syndicates Limited

W. William Hodes

Attorney
The William Hodes P.C.

Robert Irish

Senior Claims Attorney
Monitor Liability Managers, Inc.

Peter R. Jarvis

Partner
Hinshaw & Culbertson LLP

John H. Johnson, IV

Vice President
**National Economic Research
Associates, Inc.**

Ronald E. Mallen

Partner
Hinshaw & Culbertson LLP

Nancy Jane Marshall

Partner
Deutsch Kerrigan & Stiles L.L.P.

Thomas P. McGarry

Partner
Hinshaw & Culbertson LLP

Ronald C. Minkoff

Partner
Frankfurt Kurnit Klein & Selz PC

Frances M. O'Meara

Partner
Hinshaw & Culbertson LLP

Victoria L. Orze

Partner
Hinshaw & Culbertson LLP

Ellen A. Pansky

Member
Pansky & Markle

Lucian T. Pera

Partner
Adams and Reese LLP

Kim Pihlstrom

Senior Vice President and Product Manager
OneBeacon Professional Partners

Kevin S. Rosen

Partner
Gibson, Dunn & Crutcher, LLP

Michael Roster

Chair
**ACC Value Challenge
Steering Committee**

Elliot R. Schiff

Founding Partner
Schiff, Gorman & Krkljes

Joseph W. E. Schmitt

Managing Director, Bond and
Financial Products Claims
The Travelers Companies, Inc.

David M. Schultz

Partner
Hinshaw & Culbertson LLP

John W. Sheller

Partner
Hinshaw & Culbertson LLP

Barbara A. Sinsley

Partner
Barron, Newburger, Sinsley & Wier, PLLC

John J. Steele

Special Counsel and Director of
Ethics and Conflicts
Fish & Richardson P.C.

James I. Sullivan

Partner
Hinshaw & Culbertson LLP

J. Richard Supple, Jr.

Partner
Hinshaw & Culbertson LLP

Kirk A. Swanson

Managing Editor
The Bureau of National Affairs

John K. Villa

Member
Williams & Connolly L.L.P.

Edward J. Zulkey

General Counsel
Baker & McKenzie International

Conference Schedule at a Glance

Tuesday, March 3, 2009

6:00 p.m. – 8:00 p.m.

Welcome Reception
Ember Grille

Wednesday, March 4, 2009

8:00 a.m.

Registration and Continental Breakfast
Promenade Ballroom

Legal Malpractice Sessions Commence

Grand Ballroom

9:00 a.m.

Introduction – The Year in Review

9:20 a.m.

Guess Where You Are Being Sued –
Bankruptcy Court

10:20 a.m.

What You Need to Know About
Developments in Litigating Legal
Malpractice Claims

11:15 a.m.

Break

11:30 a.m.

Beyond the Basics – Selecting and Using
Expert Witnesses

12:30 p.m.

Conference Lunch
Promenade Ballroom

1:45 p.m.

Insurance Law – Prior Knowledge and
Additional Negligence Claims

2:45 p.m.

Statutory Causes of Action –
Consumer Protection Statutes

3:45 p.m.

Break

4:00 p.m.

Can I Say What Really Happened?

4:45 p.m.

Stump the Panel

6:30 p.m.

Conference Dinner
Brasserie Jo, 59 West Hubbard Street

Thursday, March 5, 2009

8:00 a.m.

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Grand Ballroom

9:00 a.m.

In the Spotlight –
The Exposure of Patent Lawyers

10:00 a.m.

Break

10:15 a.m.

The Insurance Marketplace

11:30 a.m.

How to Mitigate Your Damage Exposure
as a Defendant

12:30 p.m.

Keynote Luncheon
The Debate Over the Billable Hour:
A Rigorous Look at Competing Law Firm
Profitability Models
Promenade Ballroom

Risk Management Sessions Commence

Grand Ballroom

1:45 p.m.

The General Counsel Forum

3:15 p.m.

Break

3:30 p.m.

Plaintiff's Perspective – Red Flags and
Selection Criteria

Friday, March 6, 2009

8:00 a.m.

Continental Breakfast
Promenade Ballroom

9:00 a.m.

Risk Management and Electronic Advertising –
Websites and E-mail

10:00 a.m.

Going, Going, Gone: Lawyers Who Leave and the
Firms Left Behind

11:00 a.m.

On the Horizon – MJP, Alternative Business
Structures, and Alternative Billing Law

Conference Registration Information

Session Attendance *please specify which session you will attend*

- \$1,300 Full Conference Registration – March 4 – 6
- \$925 Legal Malpractice Sessions Only – March 4 – 5
- \$925 Risk Management Sessions Only – March 5 – 6

Registration Form *please print or type*

Name: _____

Title: _____

Company/Organization: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone and Facsimile: _____

E-mail Address (required to process registration): _____

*Discount applied (maximum 15% discount per person): _____

To pay by credit card or check, please register online at: www.LMRM.com

Or, mail registration form and check in the amount of \$_____ payable to:

Hinshaw & Culbertson LLP
Attention: Katherine McCormack
222 North LaSalle Street, Suite 300
Chicago, Illinois 60601-1081

To speak with our Conference Planner or to register by phone, please call **312-704-3329**.

Register Today – Space is Limited!

Special Complimentary Events

please check all boxes that apply

For conference planning purposes, please indicate which events (included in your registration fee) you plan to attend:

- Welcome Reception (3/3/09)
- Conference Luncheon (3/4/09)
- Conference Dinner (3/4/09)
- Keynote Luncheon (3/5/09)

Discounts

maximum 15% discount per person

Multiple Registrations – 15% Discount

Discount applies for each additional registrant from the same company
one full paid registration required

Returning Registrant – 5% Discount

Discount applies for each returning registrant

Additional Discounts

All Conference attendees are extended a 15% discount off the price of a registration by becoming a member of the Association of Professional Responsibility Lawyers (APRL). For more information on becoming a member, visit www.aprl.net.

Conference Information at a Glance



eighth annual

Legal Malpractice & Risk Management

conference

Cancellation Policy

Cancellations received via the conference registration web site (www.LMRM.com) on or before February 4, 2009, will be refunded, subject to a \$75 handling fee. Cancellations received after February 4, 2009, are non-refundable. Substitutions will be accepted at any time at no charge.

Accreditation

The educational activities provided within this conference will be submitted for approval of continuing legal education credit. **Earn up to 13.75 CLE credits, including 5.50 Ethics hours, by attending the entire three-day conference.** CLE accreditation forms for your state will be available at the conference registration desk. Please have your state bar association number with you. Please note that CLE credit hours may vary from state-to-state.

Hotel Registration

The 2009 Legal Malpractice & Risk Management Conference will take place at The Westin Chicago River North located at 320 North Dearborn, on the bank of the Chicago River. The Hotel is in the heart of Chicago's theatre and financial districts, and within walking distance of Michigan Avenue's famous Magnificent Mile.

A block of rooms has been reserved for conference attendees at The Westin Chicago River North. Room rates are **\$219** for a single/**\$249** for a double, plus 15.4% tax per room per night. Discounted rates apply for the evenings of March 3, March 4 and March 5. Make your reservation directly with the Hotel by calling **312-744-1900** or **1-800-Westin**. **The cut-off date for making your reservations into this room block is February 2, 2009.** Reservation requests received after 5:00 p.m. local time at the Hotel on the cut-off date will be accepted on a rate- and space-availability basis. When making your reservation, please mention the Legal Malpractice & Risk Management Conference to receive the discounted rate. **Make your reservation early as the block of rooms has sold out prior to the cutoff date for the past few years.** For more information about The Westin Chicago River North, visit www.westinrivernorth.com.

Conference Sponsors



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