



Professional Liability



Learn strategies for presenting cases to today's multi-generational jurors

Hear from a retired Eleventh Circuit judge about preparing appellate cases

Obtain an hour of relevant ethics credit related to professionals' ethical duties

Gain an understanding of the use of social media at trial

December 3-4, 2015

Marriott Marquis

New York, New York

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delivers
resources
to build
your practice ■



DRI's Professional Liability Seminar provides information that will be useful to all attorneys and insurers involved in representing professionals in malpractice actions. Learn about the emerging issues shaping the professional liability landscape, along with the particular issues facing specific practice lines. In addition to the top-quality educational programs, you will have the opportunity to develop relationships with professional liability claims personnel, experts, and defense counsel from across the country.



Dana K. Maine
Program Chair



Jonathan R. Harwood
Program Vice Chair



Frances M. O'Meara
Committee Chair



David L. Brandon
Committee Vice Chair



Stephen O. Plunkett
Law Institute



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have to say about
DRI seminars

<http://www.youtube.com/user/DefenseBar>

PRESENTED BY **DRI's Professional Liability Committee**







What You Will Learn

- How to have your social media evidence introduced into evidence at trial
- What you need to do in the face of a fee petition against you or your client
- Effective strategies for helping defense counsel and claim analysts reach a consensus about litigation strategy
- Emerging trends in non-profit directors' and officers' liability
- Methods of guarding against professionals' liability for cyber breach



Get Started

- 1 Review the brochure and identify sessions of interest to you
- 2 Share this brochure with colleagues
- 3 Register online at <http://dri.org/Event/20150255> or complete the form in the back
- 4 Add the program to your calendar
- 5 Download the DRI App   and make use of its features to get the most out of this program
- 6 Share on social media   

Maximize Your DRI Seminar Experience

No one gets you connected like DRI.

- Use the DRI App to customize your schedule, view course materials, and communicate with fellow attendees and speakers.
- Access the **DRI Professional Liability Committee Community** at <http://community.dri.org/home> to network with individual members. Share articles, post blogs, and connect with others on the latest trends in your area of practice.
- Discover the  **DRI Client Connection**—meet in-house registrants and speakers.

PROGRAM SCHEDULE

WEDNESDAY, DECEMBER 2, 2015

6:00 p.m. **Registration**6:00 p.m. **Networking Reception**SPONSORED BY **Thompson Coe****Traub Lieberman Straus & Shrewsberry LLP**

THURSDAY, DECEMBER 3, 2015

7:00 a.m. **Registration**7:00 a.m. **Continental Breakfast**SPONSORED BY **Freeman Mathis & Gary LLP
Marshall Dennehey Warner
Coleman & Goggin PC**7:00 a.m. **First-Time Attendees Breakfast**

PROFESSIONAL LIABILITY COMMITTEE CHAIR


Frances M. O'Meara8:00 a.m. **Welcome and Introduction****Stephen O. Plunkett**, *Bassford Remele PA*,
Minneapolis, Minnesota**Dana K. Maine**, *Freeman Mathis & Gary LLP*,
Atlanta, Georgia8:15 a.m. **Generational Considerations in Jury Trials**

Each generation is shaped by the history, technology, and philosophy of its time. From jury selection to case narrative to demonstrative evidence, this presentation will explore the relevant generational considerations. The presentation also will discuss the greater importance of understanding and exploring attitudes that are not generation-specific and the expectations of today's juries regardless of generation.

Jill Huntley Taylor, PhD, *Dispute Dynamics*,
Philadelphia, Pennsylvania9:10 a.m. **Liability Concerns for Brokers, Real Estate Agents, and Other Professionals When Working with "Hard Money" Lenders**

Real estate has undergone an upward trend since the recession of 2008. Many investors have taken advantage of the market by buying homes to "flip," forming real estate foreclosure funds, and utilizing non-conventional financing from hard money lenders. This session will examine these transactions from multiple angles, from risks and exposures to standards

of care and duties. Of course, it will also cover how to counsel your clients or insureds on how to avoid the perils of these transactions.

 **Sam Marcus**, *Navigators*, New York,
New York**Fredric W. Trester**, *Manning & Kass, Ellrod,
Ramirez, Trester, LLC*, Los Angeles, California10:05 a.m. **Refreshment Break**SPONSORED BY **Carr Allison**10:20 a.m. **Don't Panic, It Is Only a Fee Petition**

Given the number of different ways that a party can recover attorneys' fees, it can sometimes seem as if the general rule has now become the exception. Whether it is presenting a fee petition seeking sanctions based upon frivolous litigation, seeking to maximize fees as the prevailing party under a fee shifting statute, defending against such a petition, or determining who has the right to fees already collected, it will be covered in this presentation. The presentation will also discuss insurance-related aspects of fee claims.

Adam M. Koss, *Murphy Pearson Bradley & Feeney*, San Francisco, California **Lisa Midkiff**, *Lawyers Protector*,
Tampa, Florida11:15 a.m. **Who's the Boss?**

Professionals sued for malpractice typically have their own opinions about the claims they face and frequently desire an active role in formulating litigation strategy. This session will explore some of the conflicts that can frustrate the implementation of a litigation strategy that the insured client, carrier, and defense counsel can all fully support and offer strategies to help defense counsel and claim analysts effectively resolve them.

Matthew Marrone, *Goldberg Segalla*,
Philadelphia, Pennsylvania **Brett C. Arruda**, *Allied World Insurance
Company*, Farmington, Connecticut12:05 p.m. **Lunch (on your own)**1:30 p.m. **Breakout Session (see page 3)**2:25 p.m. **Biting the Hand That Feeds You**

When an insurance carrier denies a claim or takes a coverage position at odds with its


BREAKOUT SESSION Thursday, 1:30 p.m. (choose one)

1:30 p.m.

Hot Topics for Non-profit D&O Liability

The directors and officers of non-profit organizations often overlook the potential that exists for lawsuits against them personally. However, this a growing trend and the exposure is real. This program will discuss the rise in claims against individual officers and directors, potential defenses, and the additional policies that may be necessary or triggered.

Claudia Costa, *Marshall Dennehey Warner Coleman & Goggin*, Roseland, New Jersey

 **Thomas Lookstein**, *Starr Companies*, New York, New York

Demystifying Damage Defenses in Claims Against Accounting and Financial Professionals

This presentation will give defense counsel a step-by-step approach to develop legal and factual defenses to claims for economic damage. A broad variety of defenses will be explored, including defenses to claims for tax liability, lost opportunity, investment losses, misappropriation losses, and losses for aiding and abetting a breach of duty.

 **Elizabeth Cauldwell**, *CAMICO Mutual Insurance Company*, New York, New York

Thomas Hutchinson, *Bullivant Houser Bailey*, Portland, Oregon

insured, everyone involved in the insurance transaction can become a target in the resulting coverage litigation. This discussion will focus on strategies to navigate these difficult waters, including the decision to file a third-party complaint to establish coverage and the business risks associated with such actions.

 **Kiera O'Connell Goral**, *XL Catlin*, Dallas, Texas

Seth F. Kirby, *Freeman Mathis & Gary, LLP*, Atlanta, Georgia

3:20 p.m.

Refreshment Break

SPONSORED BY **Murphy Pearson Bradley & Feeney**

3:35 p.m.

Thou Shall Not Breach: Ethics in Professional Liability Claims

Defense counsel is often faced with allegations that their clients breached ethical rules applicable to their particular profession. Are those allegations appropriately part of the case? How can you keep this information out, or at least lessen its effect on your case? This session will provide examples and takeaways for all attorneys and professionals involved in the defense of complex claims.

Penny M. Deihl, *Morris Polich & Purdy LLP*, Los Angeles, California

 **Jerome V. Frazel**, *Berkley Select*, Chicago, Illinois

 **Sean Ginty**, *CNA*, Chicago, Illinois

Joel Wilson, *Bullivant Houser Bailey PC*, Portland, Oregon

4:35 p.m.

Tweet, Post, Link: The Use of Social Media at Trial

Attorneys must understand the evidentiary and ethical implications of discovering and using social media sites at trial. This session will provide attendees with an overview of the usefulness of social networking sites as evidence, as well as the potential hazards and limitations. It will also provide up-to-date practical and legal aspects of researching, collecting, authenticating, and obtaining admittance of social media evidence at trial.

Mercedes Colwin, *Gordon Rees LLP*, New York, New York

 **Matthew Pullman**, *Markel*, Chicago, Illinois

5:25 p.m.

Adjourn

5:30 p.m.

Professional Liability Committee Meeting (open to all)

6:00 p.m.

Networking Reception

SPONSORED BY **Rivkin Radler LLP**

7:30 p.m.

Dine-Arounds | Join colleagues and friends at selected restaurants for dinner (on your own). More details on-site.

FRIDAY, DECEMBER 4, 2015

7:00 a.m.

Registration

7:00 a.m.

Continental Breakfast

8:00 a.m.

Announcements

Jonathan Harwood, *Traub Lieberman Straus & Shrewsbury LLP*, Hawthorne, New York


 Denotes **THE DRI CLIENT CONNECTION**: In-house speakers

 Denotes medical professional

8:05 a.m. Professionals' Liability for Cyber Breach

A professional firm's data security policy—including its policy regarding email, document production, and cloud computing—raises special concerns above and beyond those other businesses encounter—they must take into account state-imposed ethical standards for data security. These same ethical standards also set forth guidelines that can implicate the firm's potential liability. This panel will discuss the repercussions of a cyber-breach in terms of potential liability and other consequences.

Sean Griffin, *Garvey Schubert Barer*, Washington, D.C.

 **Suhey Nevarez**, *ACE Group*, New York, New York

9:00 a.m. Fifty Shades of Grey Hair

The growth of the population age 65 and over affects many aspects of our society, challenging families, businesses, health care providers, and policymakers, among others, to meet the needs of aging individuals. Professionals should be aware of challenges they face in dealing with and recognizing potential communication difficulties and cognitive or judgment impairments with their clients or third parties. This session will discuss how to recognize possible impairment issues, deal with an impaired client, and avoid and defend potential "elder abuse" claims.

Frances M. O'Meara, *Thompson Coe & O'Meara LLP*, Los Angeles, California

 **David W. Trader, MD**, *Los Angeles, California*

9:50 a.m. Refreshment Break


SPONSORED BY **Hill Ward Henderson**

10:05 a.m. Liability Issues Related to the Use of Drones in Engineering

Design professionals view drones (UAS) as a very efficient tool. The cost and savings for these tasks are enormous. Yet uncertified commercial UAS use is illegal and insurance coverage is difficult to obtain and often contains exclusions. In short, UAS use by design and other professionals is risky. This session will focus on methods of managing that risk within the context of applicable law, insurance, loss prevention, and potential exposures.

 **Gerard P. Cavaluzzi**, *ARCADIS U.S., Inc.*, White Plains, New York

Newton Marshall, *Karbal Cohen Economou Silk Dunne, LLC*, Chicago, Illinois

 **Anthony Terranova**, *York Pro, Inc.*, New York, New York

10:55 a.m. Moving Toward a Culturally Diverse World: Guidance for Professionals

This presentation will help prepare you for changes in the U.S. population demographics expected in the next 10–20 years. How can you use diversity factors to be competitive and win in the future? What steps should you be taking now to create a more diverse and inclusive workplace? How do you attract diverse top talent to your organization? What is unconscious bias and what steps can you take to reduce the presence of bias in your decision-making?

Sharon E. Jones, *Jones Diversity*, Chicago, Illinois

11:50 a.m. Litigators' Guide to Appellate Practice

Appellate specialists are being integrated into trial teams with increasing frequency. This session will address the value of working with appellate counsel at the trial level. Illustrations will include how and when to raise appellate issues with the client, common pitfalls in preserving the record for appeal, and guarding against the "too good to be true" result. The panel will also discuss recent trends in appellate practice.

Stanley F. Birch, *retired Eleventh Circuit Court of Appeals Judge*, Atlanta, Georgia

Scot E. Samis, *Traub Lieberman Straus & Shrewsbury LLP*, St. Petersburg, Florida

12:40 p.m. It Wasn't Me; It Was the Judge

Litigation can take unexpected turns. On occasion, those turns can be caused by judicial error. The judicial error may have changed the dynamics of settlement negotiation dramatically and to the detriment of a party. This presentation will focus on several recent cases which offer thoughts on related issues.

Matthew W. Breetz, *Stites & Harbison*, Louisville, Kentucky

Wendy Keenan, *Wilson Elser Moskowitz Edelman & Dicker LLP*, New York, New York

1:30 p.m. Adjourn

GENERAL INFORMATION

In-House Counsel

In-house counsel are eligible for free registration to DRI seminars. In-house counsel are defined as licensed attorneys, who are employed exclusively by a corporation or other private sector organization for the purpose of providing legal representation and counsel only to that corporation, its affiliates and subsidiaries. In order to qualify for free registration, the individual must also be a DRI member and a member of DRI's Corporate Counsel Committee. Offer excludes the DRI Annual Meeting.

Claims Executives

Any member of DRI employed as a claims professional by a corporation or insurance company, who spends a substantial portion of his or her professional time hiring or supervising outside counsel in the representation of business, insurance companies or their insureds, associations or governmental entities in civil litigation, will be entitled to free attendance at any DRI program. **Limited to one seminar per calendar year.** Offer excludes DRI Annual Meeting.

CLE/Claims Adjusters Accreditation

This seminar has been approved for MCLE credit by the State Bar of California for up to **12.25** hours, including **1** hour of ethics credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. **Application has been made for continuing education for claims adjusters.** Credit availability and requirements vary from state to state; please check the DRI website at dri.org for the latest information for your state.



A limited number of discounted hotel rooms have been made available at the **The New York Marriott Marquis, 1535 Broadway, New York, NY 10036.**

Take advantage of the group rate of **\$399 Single/Double** in one of two ways:

- 1) Reserve online: Visit dri.org and go to the **DRI Professional Liability Seminar** page and click on the "Book Hotel" tab.
- 2) Or **contact the hotel directly at 212.398.1900** and mention the **DRI Professional Liability Seminar.**

The hotel block is limited and rooms and rates are available on a first-come, first-served basis. You must make reservations by **November 3, 2015**, to be eligible for the group rate. Requests for reservations made after **November 3** are subject to room and rate availability.

Registration Policy

Save \$100 when you register by November 5, 2015. (See the registration form for pricing.) The registration fee includes course materials, continental breakfasts, refreshment breaks, networking receptions, and access to the DRI app. If you wish to have your name appear on the registration list distributed at the conference and receive the course materials in advance, DRI must receive your registration by **November 12, 2015** (please allow 10 days for processing). Registrations received after **November 12, 2015**, will be processed on-site.

Refund Policy

The registration fee is fully refundable for cancellations received on or before **November 12, 2015**. Cancellations received after **November 12** and on or before **November 19, 2015**, will receive a refund, less a \$100 processing fee. Cancellations made after **November 19** will not receive a refund, but the course materials on CD-ROM and a \$100 certificate good for any DRI seminar within the next 12 months will be issued. All cancellations and requests for refunds must be made in writing. Fax (312.795.0747) or email (seminars@dri.org) to DRI's Accounting Department. Processing of refunds will occur within four weeks after the date of the seminar. All refunds will be processed in the same method that the payment was received. Substitutions may be made at any time without charge and must be submitted in writing.

Discounts

Group Discount The first and second registrations from the same firm or company are subject to the fees outlined previously. The registration fee for additional registrants from the same firm or company is **\$695**, regardless of membership status. All registrations must be received at the same time to receive the discount.

Travel Discounts DRI offers discounted meeting fares on various major air carriers for **DRI Professional Liability Seminar** attendees. To receive these discounts, please contact Hobson Travel Ltd., DRI's official travel provider, at 800.538.7464. As always, to obtain the lowest available fares, early booking is recommended.

- The taping or recording of DRI seminars is prohibited without the written permission of DRI.
- Speakers and times may be subject to last-minute changes.
- A small portion of your room rate offsets the costs of the seminar.
- DRI policy provides there will be no group functions sponsored by others in connection with its seminars.

Hotel Accommodations

FACULTY

➤ **Brett C. Arruda**, Allied World Insurance Company, Farmington, Connecticut

Hon. Stanley F. Birch, retired Eleventh Circuit Court of Appeals Judge, Atlanta, Georgia

David L. Brandon, Morris Polich & Purdy, LLP, Los Angeles, California

Matthew W. Breetz, Stites & Harbison, Louisville, Kentucky

➤ **Elizabeth Caldwell**, CAIMCO Mutual Insurance Company, New York, New York

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Mercedes Colwin, Gordon Rees LLP, New York, New York

Claudia Costa, Marshall Dennehey Warner Coleman & Goggin, Roseland, New Jersey

Penny M. Deihl, Morris Polich & Purdy LLP, Los Angeles, California

➤ **Jerome V. Frazel**, Berkley Select, Chicago, Illinois

➤ **Sean Ginty**, CNA, Chicago, Illinois

➤ **Kiera O'Connell Goral**, XL Catlin, Dallas, Texas

Sean Griffin, Garvey Schubert Barer, Washington, D.C.

Jonathan Harwood, Traub Lieberman Straus & Shrewsbury LLP, Hawthorne, New York

Thomas Hutchinson, Bullivant Houser Bailey, Portland, Oregon

Sharon E. Jones, Jones Diversity, Chicago, Illinois

Wendy Keenan, Wilson Elser Moskowitz Edelman & Dicker LLP, New York, New York

Seth F. Kirby, Freeman Mathis & Gary, LLP, Atlanta, Georgia

Adam M. Koss, Murphy Pearson Bradley & Feeney, San Francisco, California

➤ **Thomas Lookstein**, Starr Companies, New York, New York

Dana K. Maine, Freeman Mathis & Gary LLP, Atlanta, Georgia

➤ **Sam Marcus**, Navigators, New York, New York

Matthew Marrone, Goldberg Segalla, Philadelphia, Pennsylvania

Newton Marshall, Karbal Cohen Economou Silk Dunne, LLC, Chicago, Illinois

➤ **Lisa Midkiff**, Lawyers Protector, Tampa, Florida

➤ **Suhey Nevarez**, ACE Group, New York, New York

Frances M. O'Meara, Thompson Coe & O'Meara LLP, Los Angeles, California

Stephen O. Plunkett, Bassford Remele PA, Minneapolis, Minnesota

➤ **Matthew Pullman**, Markel, Chicago, Illinois

Scot E. Samis, Traub Lieberman Straus & Shrewsbury LLP, St. Petersburg, Florida

Jill Huntley Taylor, PhD, Dispute Dynamics, Philadelphia, Pennsylvania

➤ **Anthony Terranova**, York Pro, Inc., New York, New York

➤ **David W. Trader, MD**, Los Angeles, California

Fredric W. Trester, Manning & Kass, Ellrod, Ramirez, Trester, LLC, Los Angeles, California

Joel Wilson, Bullivant Houser Bailey PC, Portland, Oregon

View faculty bios online at <http://www.dri.org/Event/20150255> (Professional Liability Seminar webpage); click on "Speaker List" tab.



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September 8-11, 2015
Deposition Institute
Veritext Legal Solutions, Chicago, IL

September 9-11, 2015
Construction Law
The Venetian/Palazzo Resort Hotel, Las Vegas, NV

September 10-11, 2015
Nursing Home/ALF Litigation
The Venetian/Palazzo Resort Hotel, Las Vegas, NV

November 4-6, 2015
Data Breach and Privacy Law
InterContinental Chicago Magnificent Mile, Chicago, IL

November 5-6, 2015
Asbestos Medicine
The Cosmopolitan of Las Vegas, Las Vegas, NV

November 12-13, 2015
Strictly Automotive
Sheraton Nashville Downtown Hotel, Nashville, TN

December 3-4, 2015
Professional Liability
New York Marriott Marquis, New York, NY

December 3-4, 2015
Insurance Coverage and Practice Symposium
New York Marriott Marquis, New York, NY

Publications for Your Practice

Newsletter *Riding the E&O Line* (four times a year)

Visit the **Professional Liability Committee page** on dri.org and scroll down to "Latest Newsletter."

Professional Liability focus in *For The Defense*

September 2015 (upcoming)

September 2014

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Defense Library Series

Professional Liability Insurance: A Compendium of State Law



Diversity and Inclusion in DRI: A Statement of Principle

DRI is the largest international membership organization of attorneys defending the interests of business and individuals in civil litigation.

Diversity is a core value at DRI. Indeed, diversity, which includes sexual orientation, is fundamental to the success of the organization, and we seek out and embrace the innumerable benefits and contributions that the perspectives, backgrounds, cultures, and life experiences a diverse membership provides.

Inclusiveness is the chief means to increase the diversity of DRI's membership and leadership positions. DRI's members and potential leaders are often also members and leaders of other defense organizations. Accordingly, DRI encourages all national, state, and local defense organizations to promote diversity and inclusion in their membership and leadership.

SEMINAR SPONSORS

DRI wishes to thank our sponsors for their support at this year's seminar!



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Professional Liability

December 3-4, 2015

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	On or before Nov. 5, 2015	After Nov. 5, 2015	
<input type="checkbox"/> Member	\$795	\$895	<i>For inclusion on the preregistration list and to receive course materials in advance, register by November 12, 2015.</i>
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ADDITIONAL COURSE MATERIALS

Member \$75 Nonmember \$95 (Illinois residents, please add 9.25% sales tax. Shipping charges for U.S. and Canada only: \$6.50)

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