

9th Annual Premier Legal Malpractice & Risk Management Conference

March 3 - 5, 2010

The Westin Chicago
River North Hotel

320 North Dearborn Street
Chicago

Register Today at www.LMRM.com

Earn up to 15 hours of CLE credit,
including up to 6.5 hours of Ethics credit

Conference Sponsors



Event Sponsors



Welcome Message

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

The 2010 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 as our keynote speaker Andrew D. Gilman, President & CEO of CommCore Consulting Group, a **leader in message development and customized media training services**. He will talk about strategizing before, during and after crisis situations and how to take control of the news, instead of just responding to the next fact.

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
2010 Program Chairman

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



Special Conference Events

Welcome Reception — March 2

Kick off the conference by mingling with other guests at the complimentary Welcome Reception in the Ember Grille at The Westin Chicago River North Hotel on Tuesday, March 2, from 6:00 p.m. to 8:00 p.m.

Sponsored by CRSTL Solutions and Legalbill

Conference Dinner — March 3

Join us for a special Conference Dinner at 6:30 p.m. on Wednesday, March 3, at Brasserie Jo, Chicago's only authentic French brasserie and winner of the 1996 James Beard Award for "best new restaurant in the U.S." Brasserie Jo is a short walk from the Hotel at 59 West Hubbard.

Sponsored by Chubb

Keynote Luncheon — March 4



Andrew D. Gilman, President & CEO of CommCore Consulting Group, a **leader in message development and customized media training services**, will talk about strategizing before, during and after crisis situations and how to take control of the news, instead of just responding to the next fact.

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



Conference Schedule

Tuesday

March 2, 2010

6:00 p.m. – 8:00 p.m.

Welcome Reception

The Westin Chicago River North Hotel, Ember Grille

Sponsored by CRSTL Solutions and LegalBill

Wednesday

March 3, 2010

8:00 a.m. – 9:00 a.m.

Registration and Continental Breakfast

Promenade Ballroom

Sponsored by InOutsource

9:00 a.m. – 9:20 a.m.

Conference Chairman:
Ronald E. Mallen

Introduction

The Year in Review

Legal Malpractice Sessions Commence in the Grand Ballroom

9:20 a.m. – 10:20 a.m.

Panel Moderator: Frances M. O'Meara

Speakers: John W. Sheller
William J. Wernz

Standing to Sue, Privity and Duty of Disclosure

Arising from the frequent management changes in corporate America is the important question of ownership or control of the cause of action for attorney negligence. This panel will discuss this topic as well as a counsel's duty to disclose suspicions of one's own negligence.

10:20 a.m. – 11:15 a.m.

Panel Moderator: James I. Sullivan

Speakers: Pamela A. Bresnahan
Richard H. Donohue

Significant Developments in Litigating Legal Malpractice Claims

Experienced trial lawyers will analyze recent decisions concerning expert witnesses, a client's failure to maintain files and the treatment of defenses that would have been affirmative in the underlying cause, among other significant decisions. With respect to expert witnesses, the panel will discuss when assumptive facts are not enough, and what qualifications are necessary to testify to professional responsibility issues. Topics covered will also include when the client's failure to maintain the files can be a defense, and how to treat defenses that would have been affirmative in the underlying case.

11:15 a.m. – 11:30 a.m.

Break

To view cases that will be discussed during the conference, visit www.LMRM.com.

Conference Schedule

11:30 a.m. – 12:30 p.m.

Panel Moderator: Terrence P. McAvoy
Speakers: J. Richard Supple, Jr.
Nancy Jane Marshall

12:30 p.m. – 1:45 p.m.

1:45 p.m. – 2:45 p.m.
Panel Moderator: Michael E. O'Neill
Speakers: David J. Beck
Kevin S. Rosen

2:45 p.m. – 3:45 p.m.

Panel Moderator: David A. Grossbaum
Speakers: Julianne Splain
Jeffrey H. Bossart

What's Your Little Secret? They Want to Know

Although the law regarding the attorney-client privilege and work product doctrine is fairly well-established, new developments and issues continue to be litigated with respect to the nature and extent of the protection afforded by the courts concerning confidential communications. The disputed issues involve not only attorneys and clients, but also non-clients, third-parties and the government. For example, if an attorney confers with the firm's in-house counsel about professional obligations concerning an error that the attorney may have made or a potential malpractice claim, are such communications privileged? If documents are produced by a party to the government pursuant to a subpoena and threat of criminal prosecution and a confidentiality agreement is reached, are such documents discoverable in subsequent litigation? When and how does a waiver occur concerning privileged communications or work product? The panel will explore these questions and more.

Conference Lunch

Promenade Ballroom
Sponsored by [IntApp, Inc.](#)

Judgmental Immunity – A Modern Look at the Legal Profession's Oldest Defense

Recent decisions have been handed down involving when the defense is one of law or fact, the use concerning unsettled propositions and tactical decisions, and the relationship to causation and fault. Several cases illustrate these applications in the context of whether an action has to be filed in bankruptcy or federal court, and failure to challenge a punitive damage claim. This panel of experienced litigators will discuss and analyze these decisions as well as emerging cases.

Insurance Coverage Update: The Year in Review — Prior Knowledge Redux and the Definition of Professional Services

The prior knowledge limitation once again figures prominently in professional liability coverage decisions. A number of courts are chipping away at the objective standard and are relying on factors previously considered only by courts using a subjective standard. This past year courts have also addressed whether a declaratory judgment action brought to determine a prior knowledge coverage defense can be litigated before the legal malpractice case itself, or whether the coverage action must be stayed until the conclusion of the malpractice case. This panel of coverage lawyers and claims professionals will discuss these cases as well as cases where courts interpreted the intentional acts exclusion, and set forth standards for determining if multiple claims are "related acts" for purposes of establishing policy limits. Also analyzed will be the recent spate of decisions in which courts defined the phrase "professional services" to determine whether the policy covered allegations of kick-back schemes, claims by non-clients and claims against lawyers arising from overdrafts in their accounts after being ensnared in Internet fraud schemes.

Register online today at www.LMRM.com or call 312-704-3329 to register via phone

Conference Schedule

3:45 p.m. – 4:00 p.m.

Break

4:00 p.m. – 4:45 p.m.

Speakers: David M. Schultz
Thomas P. McGarry

2009 LMRM Case Update and Statutory Causes of Action

The panel will discuss subsequent developments in cases addressed during last year's conference and will provide an update on important cases involving statutory liabilities.

4:45 p.m. – 5:30 p.m.

Panel Moderator: Peter R. Jarvis

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.

6:30 p.m.

Conference Dinner

Brasserie Jo, 59 West Hubbard Street
Sponsored by *Chubb*

Thursday

March 4, 2010

8:00 a.m. – 9:00 a.m.

Continental Breakfast

Promenade Ballroom
Sponsored by *Elite*

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

9:00 a.m. – 10:15 a.m.

Panel Moderator: Victoria L. Orze
Speakers: Sally Field
Adam D. Sharaf

The Insurance Marketplace and Considerations

Insurance industry professionals will present our annual survey of the LPL insurance marketplace, and explore how the 2009 economy impacted insurance rates, availability and coverages. Have the predictions made by the 2009 panel come to fruition, or is the market's perfect storm still lurking in the cycle? The panel will also survey claims trends and address ways in which law firms may be able to obtain added value from their premium dollars.

10:15 a.m. – 10:30 a.m.

Break

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 and search for the Lawyers for the Profession® programs.

Conference Schedule

10:30 a.m. – 11:30 a.m.

Panel Moderator: Allison D. Rhodes

Speakers: William P. Schuman
Andrea L. Zopp

Who is the Client and Standing to Sue – Successor Entities, Affiliates and Subsidiaries

A developing area of the law concerns a law firm's duties to an entity that is the successor to or related in some structural manner to the client. The issue may arise in the context of disqualification or whether there is standing to sue. The panel will examine whether the attorney-client relationship survives these changes and in what form. Does the entity have status as a "client" (current or former) for purposes of legal malpractice claims, conflicts of interest, confidentiality and the attorney-client privilege?

11:30 a.m. – 12:30 p.m.

Panel Moderator: Peter R. Jarvis

Speakers: H. Robert Fiebach
Martin S. Checov
D. Ronald Ryland

Advance Conflict Waivers, Screening and How to Do It

What makes some advance conflicts waivers succeed while others fail? What, if anything, is the effect of the 2009 amendment to the ABA Model Rules, which allows screening when lawyers move from one private firm to another? And what should or must be included to have an effective screen, whether under the ABA Model Rules or by private agreement? Learn the answers to these and other real-world questions from hands-on practitioners who regularly address them. There is both art and science here, and both can be learned.

12:30 p.m. – 1:45 p.m.

Speaker: Andrew D. Gilman, President,
CommCore Consulting Group

Keynote Luncheon — Crisis Management

Promenade Ballroom

*Sponsored by **Lockton***

Risk Management Sessions Commence in Grand Ballroom

1:45 p.m. – 3:15 p.m.

Panel Moderator: Thomas L. Browne

Speakers: Edward J. Zulkey
Hope A. Comisky

The General Counsel Forum

Back again 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. This panel of general counsel will address topics and questions submitted in advance by conference attendees and advisors. Attendees of this session will also be encouraged to introduce topics for general discussion.

3:15 p.m. – 3:30 p.m.

Break

3:30 p.m. – 4:30 p.m.

Panel Moderator: Thomas P. Sukowicz

Speakers: Brant C. Weidner
Joel D. Adler

Suits for Fees / Mandatory Fee Arbitration

Practical ways in which law firms can avoid claims arising out of fee disputes and still collect fees will be addressed by this panel. They will cover the pros and cons of alternative fee dispute resolution, as well as the practical consequences of choosing arbitration over other forms of resolving fee disputes.

Conference Schedule

Friday

March 5, 2010

8:00 a.m. – 9:00 a.m.

Continental Breakfast

Promenade Ballroom

*Sponsored by **Hinshaw & Culbertson LLP***

9:00 a.m. – 10:00 a.m.

Panel Moderator: Anthony E. Davis

Speakers: Tom H. Luetkemeyer
James L. Rhyner
Thomas A. Willoughby

Risk Management Considerations in Restructuring and Winding-Up Law Firms

The “great recession” has led to the demise of several venerable law firms – and more may follow. The ensuing disputes among partners, former partners, associates and staff, creditors, clients – and even the firms to which the lawyers have moved – have demonstrated the complexity of the legal issues that arise in these situations. The lack of clear guidance for management as well as individual lawyers confronted with the demise of their professional home exacerbates the problems and prolongs the process of resolution. Among the issues that this panel will address are: to whom are partners liable (and who is considered a “partner”); limited liability – is it working; management liability and insurance; employment issues; and risk management implications (preparing for the worst).

10:00 a.m. – 11:00 a.m.

Panel Moderator: Michael P. Downey

Speakers: Beth E. Chiaiese
Robert D. Owen

Managing Client and Law Firm Data, and What Gives When Client and Firm Policies Conflict?

Discovery requests, including federal disclosure requirements, raise questions about the need to produce certain types of electronic documents and communications. The casual use of intra-firm emails can create potentially embarrassing and sometimes damaging evidence. These concerns warrant examination of law firm policies and practices. The speakers will discuss how firms can minimize their risks and how they should respond to such requests.

11:00 a.m. – 12:00 p.m.

Panel Moderator: Anthony E. Davis

Speakers: William T. Garcia
Susan J. Hackett

On the Horizon – The Slow Motion Revolution

The law firm model that was so successful over the last three decades is under attack. Billing arrangements, leverage, staffing and law firm structure are all threatened. This panel will identify and assess some of the changes that progressive firms are already putting into effect, and will assess the risk management implications of the new and evolving models of law practice.

Earn up to 15 hours of CLE credit, including up to 6.5 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 15 hours of CLE credit, including up to 6.5 hours of Ethics credit, by attending the entire conference.

Conference Speakers

Joel D. Adler

Attorney
Adler Law Firm

David J. Beck

Partner
Beck, Redden & Secrest, LLP

Jeffrey H. Bossart

Chief Claims Officer and
Senior Vice President
Valiant Insurance Group

Pamela A. Bresnahan

Partner
Vorys, Sater, Seymour and Pease LLP

Thomas L. Browne

Partner
Hinshaw & Culbertson LLP

Martin S. Checov

Partner and General Counsel
O'Melveny & Myers LLP

Beth E. Chiaiese

National Director of Loss Prevention
Foley & Lardner LLP

Hope A. Comisky

Partner and
Professional Responsibility Counsel
Pepper Hamilton, LLP

Anthony E. Davis

Partner
Hinshaw & Culbertson LLP

Richard H. Donohue

Member
Donohue Brown Mathewson & Smyth LLC

Michael P. Downey

Partner
Hinshaw & Culbertson LLP

H. Robert Fiebach

Partner
Cozen O'Connor

Sally Field

Legal Professional Liability Leader
Attorney Protective

William T. Garcia

Managing Director, Client Services
Howrey LLP

Andrew D. Gilman

President & CEO
CommCore Consulting Group

David A. Grossbaum

Partner
Hinshaw & Culbertson LLP

Susan J. Hackett

Senior Vice President & General Counsel
Association of Corporate Counsel

Peter R. Jarvis

Partner
Hinshaw & Culbertson LLP

Tom H. Luetkemeyer

Partner
Hinshaw & Culbertson LLP

Ronald E. Mallen

Partner
Hinshaw & Culbertson LLP

Nancy Jane Marshall

Partner
Deutsch Kerrigan & Stiles L.L.P.

Terrence P. McAvoy

Partner
Hinshaw & Culbertson LLP

Thomas P. McGarry

Partner
Hinshaw & Culbertson LLP

Frances M. O'Meara

Partner
Hinshaw & Culbertson LLP

Michael E. O'Neill

Partner
Hinshaw & Culbertson LLP

Victoria L. Orze

Partner
Hinshaw & Culbertson LLP

Robert D. Owen

Partner
Fulbright & Jaworski LLP

Allison D. Rhodes

Partner
Hinshaw & Culbertson LLP

James L. Rhyner

VP Worldwide Lawyers Professional Liability
Manager
Chubb Specialty Insurance

Kevin S. Rosen

Partner
Gibson, Dunn & Crutcher LLP

D. Ronald Ryland

Partner and General Counsel
Sheppard Mullin Richter & Hampton LLP

David M. Schultz

Partner
Hinshaw & Culbertson LLP

William P. Schuman

Partner
McDermott, Will & Emery LLP

Adam D. Sharaf

Senior Vice President
Axis Pro

John W. Sheller

Partner
Hinshaw & Culbertson LLP

Julianne Splain

Vice President, Professional and
Management Liability Claims
Allied World Assurance Company

Thomas P. Sukowicz

Partner
Hinshaw & Culbertson LLP

James I. Sullivan

Partner
Hinshaw & Culbertson LLP

J. Richard Supple, Jr.

Partner
Hinshaw & Culbertson LLP

Brant C. Weidner

Claims Manager
Beazley Group plc

William J. Wernz

Partner
Dorsey & Whitney LLP

Thomas A. Willoughby

Partner
Felderstein Fitzgerald Willoughby &
Pascuzzi LLP

Andrea L. Zopp

Executive Vice President and General Counsel
Exelon Corporation

Edward J. Zulkey

General Counsel
Baker & McKenzie International

Conference Schedule at a Glance

Tuesday

March 2, 2010

6:00 p.m. – 8:00 p.m.

Welcome Reception

Ember Grille

Wednesday

March 3, 2010

8:00 a.m.

Registration and
Continental Breakfast

Promenade Ballroom

9:00 a.m.

The Year in Review – Introduction

Legal Malpractice Sessions Commence

Grand Ballroom

9:20 a.m.

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Duty of Disclosure

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Significant Developments in Litigating
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11:15 a.m.

Break

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What's Your Little Secret?
They Want to Know

12:30 p.m.

Conference Lunch

Promenade Ballroom

1:45 p.m.

Judgmental Immunity – A Modern
Look at the Legal Profession's
Oldest Defense

2:45 p.m.

Insurance Coverage Update:
The Year in Review — Prior
Knowledge Redux and the Definition
of Professional Services

3:45 p.m.

Break

4:00 p.m.

2009 LMRM Case Update and
Statutory Causes of Action

4:45 p.m.

Stump the Panel

6:30 p.m.

Conference Dinner

Brasserie Jo, 59 West Hubbard Street

Thursday

March 4, 2010

8:00 a.m.

Continental Breakfast

Promenade Ballroom

Legal Malpractice / Risk Management Cross-Over Sessions Commence

Grand Ballroom

9:00 a.m.

The Insurance Marketplace and
Considerations

10:15 a.m.

Break

10:30 a.m.

Who is the Client and Standing to
Sue – Successor Entities, Affiliates
and Subsidiaries

11:30 a.m.

Advance Conflict Waivers,
Screening and How to Do It

12:30 p.m.

Keynote Luncheon —
Crisis Management

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.

Suits for Fees / Mandatory Fee
Arbitration

Friday

March 5, 2010

8:00 a.m.

Continental Breakfast

Promenade Ballroom

9:00 a.m.

Risk Management Considerations
in Restructuring and Winding-Up
Law Firms

10:00 a.m.

Managing Client and Law Firm Data,
and What Gives When Client and
Firm Policies Conflict?

11:00 a.m.

On the Horizon – The Slow
Motion Revolution

Conference Registration Information

Session Attendance *please specify which session you will attend*

- \$1,300 Full Conference Registration – March 3-5
- \$925 Legal Malpractice Sessions Only – March 3-4
- \$925 Risk Management Sessions Only – March 4-5

Registration Form *please print or type*

Name: _____

Title: _____

Company / Organization: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Facsimile: _____

Email Address (required to process registration): _____

*Discount applied (only one discount permitted per individual): _____

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 – **March 2**
- Conference Luncheon – **March 3**
- Conference Dinner – **March 3**
- Keynote Luncheon – **March 4**

Discounts

**maximum 15% discount per person*

Multiple Registrations – 15% Discount

Discount applies for each additional registrant from the same company

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.

9th Annual Premier Legal Malpractice & Risk Management Conference

Conference Information at a Glance

Cancellation Policy

Cancellations received via the conference registration web site (www.LMRM.com) on or before February 1, 2010, will be refunded, subject to a \$75 handling fee. Cancellations received after February 1, 2010, 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 15 CLE credits, including 6.5 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 Information

The 2010 Legal Malpractice & Risk Management Conference will take place at The Westin Chicago River North Hotel located at 320 North Dearborn Street, on the bank of the Chicago River. The Hotel is in the heart of the city'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 **\$225** for a single / **\$255** for a double, plus 15.4% tax per room per night. Discounted rates apply for the evenings of March 2, March 3 and March 4. 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 1, 2010.* Reservation requests received by the Hotel after 5:00 p.m. local time 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



Event Sponsors

