



# Agenda

**Ritz-Carlton Chicago**

March 3 – 5, 2020

## Tuesday, March 3, 2020

---

6:00 – 8:00 p.m.      **Welcome Reception**  
*Lakeside Ballroom*

## Wednesday, March 4, 2020

---

7:30 a.m. – 5:00 p.m.      **Conference Registration & Exhibitors**  
*Ritz-Carlton Ballroom Foyer*

7:30 – 8:30 a.m.      **Networking Breakfast**  
*St. Clair Ballroom*

**First-Time Attendee Breakfast**  
*Astor*

Are you new to the LMRM Conference? Join us for breakfast and learn how to get the most out of your LMRM Conference experience as well as get acquainted with other first-time attendees.

----- All conference sessions take place in the Ritz-Carlton Ballroom -----

8:30 – 8:45 a.m.      **Welcome Remarks**  
**Thomas P. McGarry**, Partner and Chair, Professional Responsibility, Professional Liability and Risk Management Practice Group, Hinshaw & Culbertson LLP  
**Emcee:**      **Katherine G. Schnake**, Partner, Hinshaw & Culbertson LLP



8:45 – 9:35 a.m.

### **Year in Review — Significant Developments in Malpractice Claims**

**Moderator:** Marissa Delinks, Partner, Hinshaw & Culbertson LLP

**Panelists:** Eileen R. Garczynski, Senior Vice President and Equity Partner,  
Ames & Gough

Marian C. Rice, Partner, L'Abbate, Balkan, Colavita & Contini, LLP

Are firms seeing bad claims outcomes? What can recent trends tell us about the future claims environment? Experienced malpractice defense counsel and an officer of a leading malpractice insurance broker lead the audience in an interactive examination of current legal malpractice claim trends and exchange their predictions as to what those trends can tell us about the future. Also, the panel will take the audience on a *year-in-review* look at noteworthy legal malpractice developments. Audience participation is encouraged.

9:35 – 10:25 a.m.

### **Optimal Pretrial and Trial Strategies to Resolve Causation**

**Moderator:** Matthew R. Henderson, Partner, Hinshaw & Culbertson LLP

**Panelists:** Zandra E. Foley, Partner, Thompson Coe

John K. Villa, Partner, Williams & Connolly LLP

The first line of defense in a legal malpractice case is often that the plaintiff-client cannot establish that "but for" the defendant-attorney's negligence he or she would have obtained a more favorable result in the underlying case or transaction. This panel of experienced malpractice defense counsel will examine recent decisions that have addressed the proximate cause defense in different contexts, the role of expert testimony, and trends that they see developing throughout the country. The panel will also discuss winning strategies to successfully implement the proximate cause defense in pre-trial motions, mediation, arbitration, and trial.

10:25 – 10:50 a.m.

### **Networking Break**

*Ritz-Carlton Ballroom Foyer*

10:50 – 11:40 a.m.

### **Pick your Poison: Factors in Choosing a Trial by Judge or Jury in Lawyer Disputes**

**Moderator:** Thomas P. McGarry, Partner and Chair, Professional Responsibility, Professional Liability and Risk Management Practice Group, Hinshaw & Culbertson LLP

**Panelists:** Hon. Brigid M. McGrath, (Ret.), Senior Mediator and Arbitrator, ADR Systems

Kevin S. Rosen, Partner, Gibson, Dunn & Crutcher LLP

The guarantee of trial by jury is an essential part of our legal system rooted in the fundamental premise that juries are fair and impartial fact finders. Yet lawyers and litigants differ in their beliefs that fair outcomes are more likely to result in a trial before a jury versus a trial by a judge.

In the legal malpractice arena, many cases, and in particular those with underlying issues of legal causation, are more suited to decision by an expert judge, rather than a lay jury. It seems that the *judge versus jury* question is a matter of jurisdiction-specific approaches, judgment calls, and more than a tincture of speculation. In this panel, you will hear from seasoned malpractice trial lawyers and a recently retired trial judge about their personal experiences trying and presiding over legal malpractice cases. The panel



will discuss what issues a jury can decide in a legal malpractice case, what issues or types of legal malpractice cases must be reserved for a judge, how mixed questions are handled, and jurisdictional differences on these issues. In addition, the panel will explore tactical and strategy considerations a lawyer should keep in mind when presenting the case in either a bench or jury trial. Audience participation will be invited.

11:40 a.m. – 12:30 p.m. **Voir Dire: The Art of Jury De-selection in a Legal Malpractice Case**

**Moderator:** Robert J. Romero, Partner, Hinshaw & Culbertson LLP

**Panelists:** William D. Cobb, Jr., Member, Cobb Martinez Woodward PLLC  
Aref Jabbour, PhD, Senior Consultant, Trial Behavior Consulting Inc.  
Elliot R. Schiff, Founding Partner, Schiff Gorman LLC

Hear from seasoned trial lawyers and a trial consultant expert about steps to ensure effective jury selection in an era of generational shifts in jury pools, the ubiquitous nature of social media, and public perception of lawyers and law firms.

12:40 – 1:40 p.m. **Networking Lunch**  
*St. Clair Ballroom*

1:50 – 2:40 p.m. **Be Prepared: Recent Trends and Significant Developments in Insurance Coverage for LPL Claims**

**Moderator:** Suzanne L. Jones, Partner, Gordon Rees Scully Mansukhani, LLP

**Panelists:** Matthew Borrillo, Claims Attorney, Oregon State Bar Professional Liability Fund  
Sharnel Korala Mesirow, Claims Attorney, Oregon State Bar Professional Liability Fund  
Shelagh McCarthy Savino, Esq., Assistant Vice President, Claims, Berkley Select

Threats to law firms evolve constantly, and the number of high payouts on legal malpractice claims grows at an increasing pace. If faced with a claim, do you have enough coverage? Or even the right coverage? Join these industry experts for a review of recent trends and developments in insurance coverage for malpractice claims. The panel will also explore common coverage issues relating to the new frontier of cybercrime exposures: phishing, ransomware attacks, and data security breaches.

Be in the know so you can be prepared.

2:40 – 3:00 p.m. **Networking Break**  
**Sponsored by: Willis Towers Watson**  
*Ritz-Carlton Ballroom Foyer*

3:00 – 3:50 p.m. **Successful Mediation Strategies**

**Moderator:** David A. Grossbaum, Partner, Hinshaw & Culbertson LLP

**Panelists:** Hon. James R. Epstein (Ret.), JAMS  
Jefferey Ogden Katz, Member, Patterson Law Group  
Kenneth D. Small, Vice President and Senior Claim Counsel, ALAS



More cases go to mediation than trial—so how do you succeed at mediation? We'll bring together an experienced mediator, a defense lawyer, a plaintiff's lawyer, and an insurance claims professional to consider how to best prepare for and conduct a successful mediation.

The panel will discuss the timing of mediation; critical attendees; selecting the best mediator for your case; defining the scope of mediation statements and the joint session; successful techniques for the mediator and the parties in the private sessions; unique challenges of multi-party mediations; and best practices for written confirmation of settlement.

If you participate in mediation—and we all do—you don't want to miss this panel.

3:50 – 4:50 p.m.

### **What's Keeping General Counsel Awake at Night?**

**Moderator:** Janis M. Meyer, Of Counsel, Clyde & Co. US LLP

**Panelists:** Ellen Hayes, Of Counsel, Risk Americas, Linklaters LLP  
Jonathan H. Margolies, Partner, Michael Best & Friedrich LLP  
James H. Palmer, Partner and General Counsel, Atkinson, Andelson,  
Loya, Ruud & Romo

Law firm general counsel spend countless nights pondering issues they may face the next day. This panel of experienced general counsel will focus on specific challenges that cause particular angst, including partner departures, the unauthorized practice of law, bad clients, and conflicts, conflicts, conflicts.

5:00 – 6:00 p.m.

### **Women's Networking Reception**

**Sponsored by:** LexisNexis

Astor

6:30 p.m.

### **Conference Dinner**

**Harry Caray's 7th Inning Stretch and Chicago Sports Museum**

835 North Michigan Avenue, Chicago, IL 60611

## Thursday March 5, 2020

---

7:30 a.m. – 3:00 p.m.

### **Conference Registration & Exhibitors**

Ritz-Carlton Ballroom Foyer

7:30 – 8:20 a.m.

### **Networking Breakfast**

St. Clair Ballroom

### **Young Professionals Breakfast**

Astor

Join us for breakfast to connect with other young professionals working in legal malpractice and risk management.



8:20 – 9:10 a.m.

**CCPA's Unintended Consequences: The Use of Privacy Laws to Steal Identities and other Risks to Law Firms**

**Moderator:** Steven M. Puiszis, General Counsel, Hinshaw & Culbertson LLP

**Panelists:** Laura Clark Fey, Esq., Privacy Law Specialist and Principal, Fey LLC  
Judith A. Selby, Partner, Hinshaw & Culbertson LLP

Digital data privacy is quickly becoming the new normal. Data privacy laws, however, are creating costly compliance obligations for companies and law firms subject to them. The CCPA is the latest example. In the quest to protect consumers from misuse of their personal information, the CCPA and its proposed regulations have far reaching and unintended consequences. One such risk is fraudsters using a consumer's right to access personal information to steal another's identity. The panel will explore this, and other risks to law firms posed by the CCPA, practical tips to mitigate these risks and possible pot holes in cyber coverage you should be aware of when seeking to insure against these risks.

9:10 – 10:00 a.m.

**No Good Deed Goes Unpunished: Managing the Risk in Pro Bono Representation**

**Moderator:** Noah D. Fiedler, Partner, Hinshaw & Culbertson LLP

**Panelists:** Anthony Perez Cassino, Pro Bono Counsel, Milbank LLP  
Heather L. Rosing, Chief Financial Officer and Shareholder, Klinedinst

The ABA strongly recommends pro bono work, and new lawyers often factor it into employment decisions. How does—and should—your firm handle pro bono representation? We'll evaluate the unique hazards presented by pro bono programs in client engagement, matter supervision, insurance, and even disengagement. The panel will also explore how law firms can and should mitigate those risks. Join us to talk about how to do good safely.

10:00 – 10:20 a.m.

**Networking Break**

*Ritz-Carlton Ballroom Foyer*

10:20 – 11:10 a.m.

**The Duty of Technological Competence**

**Moderator:** Anthony E. Davis, Of Counsel, Clyde & Co. US LLP

**Panelist:** Steven M. Puiszis, General Counsel, Hinshaw & Culbertson LLP

Technology empowers—but also heightens—the risks facing lawyers and law firms. It's getting worse, not better, and much more complex. Lawyers' responsibilities and duties to manage the technology on which they and clients rely are becoming increasingly onerous. The ABA Model Rules of Professional Conduct now specifically identify technological competence is a key component of the requirement in Model Rule 1.1 that lawyers be "competent." Many states have already adopted some version of that requirement in their own rules. All the while, the threats to data security grow exponentially. And these problems are significantly increased when client data is moved across international borders, and are further compounded by domestic U.S. rules governing data privacy which continue to expand and become more intrusive. All the while, in their spare time, individual lawyers create and post on blog and social network sites which are often viewed more than all their firms' marketing materials. This panel will identify the key components of technological competence, and offer suggestions for addressing the ethics and risk management challenges that face lawyers and law firms as they operate increasingly, if not exclusively, in the digital universe.



11:10 a.m. – 12:00 p.m. **Law Firms are Rushing to Open Cannabis Practices: What Should General Counsel Do?**

**Moderator:** **Kenneth E. Yeadon**, Partner, Hinshaw & Culbertson LLP

**Panelists:** **Christopher M. Farella**, General Counsel and Member, Epstein Becker & Green, P.C.

**James J. Grogan**, Former Deputy Administrator and Chief Counsel, Attorney Registration & Disciplinary Commission of the Supreme Court of Illinois (ARDC)

States are rapidly tipping the law toward the legalization of cannabis, and law firms have a unique opportunity to participate in a national start-up industry. But there are landmines everywhere. How should a law firm handle retainers and receive payments from clients who deal only in cash or bitcoin? How should a law firm give advice where state and federal laws conflict? Cannabis' complex and evolving legal status drives the growth of cannabis practices within law firms while also preventing those practices from reaching their full potential. The panel, including big-firm general counsel and a past federal prosecutor, will address these issues and more.

12:00 – 1:15 p.m. **Lunch Presentation: Non-Lawyer Ownership of Law Firms in England and Wales: Opportunities and Lessons Learned**

*St. Clair Ballroom*

**Guest Speaker:** **Graham Reid**, Legal Director, Professional Regulation, RPC

England and Wales permit non-lawyers to own and manage law firms. More than 1000 of these Alternative Business Structure ventures now exist in one of the most highly regulated legal services environments in the world. Graham Reid, a professional regulation expert at the solicitors' firm RPC, will examine the contradictions and conflicts that arise when non-lawyers own legal firms; how these entities have performed in both client service and regulatory compliance; and how non-lawyer ownership affects law firms' competitiveness.

1:20 – 2:10 p.m. **Taking Care of Our Own: Reducing the Risk of Mental Health and Substance Use Disorders in the Legal Profession**

**Moderator:** **Cassidy E. Chivers**, Partner, Hinshaw & Culbertson LLP

**Panelists:** **Christine P. Anderson**, Counsel, Attorney Registration & Disciplinary Commission of the Supreme Court of Illinois (ARDC)

**Tracy L. Kepler**, Risk Control Consulting Director, Global Specialty Lawyers Professional Liability, CNA

**Cameron G. Stout**, CEO and Founder of Stout Heart, Inc.; Principal of Stout Mediation Services; Counsel at Thurman Legal

In 2016, the ABA Commission on Lawyer Assistance Programs and the Hazelton Betty Ford Foundation published a landmark study finding that between 21 and 36 percent of lawyers in America qualify as problem drinkers, and another 28 percent struggle with depression or anxiety. Recognizing a critical blind spot that has festered for far too long, the study was met with a resounding call for immediate action by bar associations, insurance and risk management professionals, law schools, and law firm leadership. This panel will examine the root causes of lawyer impairment, its impact on the individual lawyer as well as the profession as a whole, and the strategies to improve lawyer well-being that have been developed since the ABA study.





2:10 – 3:00 p.m.

### **A Look into the Future of the Regulation of the Legal Profession**

**Moderator:** Anthony E. Davis, Of Counsel, Clyde & Co. US LLP

**Panelists:** Lucian T. Pera, Partner, Adams & Reese LLP

Graham Reid, Legal Director, Professional Regulation, RPC

There are a number of pressing issues threatening the stability of the legal profession today. The most pervasive are:

- UPL rules based on 18th Century communications systems creating endless problems for individual lawyers and law firms of all shapes and sizes;
- the explosive growth of legal service providers completely removed from law firms—and essentially unregulated; and
- a law firm economic model that inhibits investment and ethical rules that restrict change and hinder innovation.

Some states are already contemplating significant changes to the Rules of Professional Conduct in areas such as fee sharing with non-lawyers and investment in law firms by non-lawyers. In addition to surveying proposals, and reviewing actual changes already in the works, this panel will also discuss the lessons to be learned from the other common-law jurisdictions—notably England and Australia—where what seems revolutionary in the United States is already in place. (Spoiler Alert: the sky *isn't* falling).

3:00 p.m.

### **Conference Adjourns**