

# National Asbestos Litigation Conference

September 23-25, 2009 | Four Seasons Hotel, San Francisco



**CONFERENCE CHAIRS:**

Joseph Belluck, Esq., Belluck & Fox LLP

Michael Pietrykowski, Esq., Gordon & Rees, LLP

Joseph J. O'Hara, Jr., Esq., Vice President and Associate General Counsel, Owens-Illinois, Inc.

**WEDNESDAY, SEPTEMBER 23, 2009**

3:30 Afternoon Break

8:30 Morning Registration and Continental Breakfast

9:15 Introductory Remarks: The Chairs' Mission Statement  
*The chairs will open the conference, highlighting key sessions and a first-ever mission statement, which is to address significant recurring issues in asbestos litigation and to propose a set of solutions for consideration going forward.*

9:30 Asbestos Data Analysis 2009  
 • Why good asbestos claims data is important and the impact of having bad data  
 • Asbestos data – what makes it so unique and complex?  
 • Manville data is no longer available – what is the impact and how will companies respond?  
 • New Medicare mandatory reporting program – what is the impact on asbestos litigation?  
 James Tanella, Managing Director, Navigant Consulting, Inc.  
 Francine Rabinovitz, Ph.D., Executive Vice President, Hamilton, Rabinovitz & Associates, Inc.  
 Scott Goldberg, Esq., Selman Breitman LLP

10:30 Current & Future Advances in Science and Medicine Framing the Litigation  
 • Fiber burden analysis – the what's, the why's & the how's  
 • Preservation issues which affect fiber burden and mineral analysis  
 • Chrysotile update  
 • Looking to the future: DNA imprinting, bio-molecular research and other advances in science which will likely impact the future litigation  
 Ronald Dodson, Ph.D., F.C.C.P., F.A.H.A, President, Dodson Environmental Consulting, Inc.  
 Harvey Pass, M.D., Prof. of Surgery & Cardiothoracic Surgery - Chief Division of Thoracic Surgery & Thoracic Oncology, Director of Surgical Research, NYU School of Medicine  
 Thomas Sporn, M.D., Associate Prof. of Pathology & Thoracic Pathology, Duke University Medical Center

11:30 Morning Break

11:45 General Causation Analysis in Mesothelioma Cases  
 • Does the idiopathic defense work? With judges? With juries?  
 • Alternate causes of mesothelioma  
 • "New" cancers recently linked to asbestos (e.g. ovarian cancers)  
 Thomas Hart, III, Esq., Law Offices of Thomas H. Hart III, P.C.  
 Robert Rich, Esq., Gordon & Rees, LLP

12:30 Networking Luncheon Sponsored by Navigant Consulting, Inc.

1:30 Specific Causation Analysis in Mesothelioma Cases  
 • The viability of "every fiber," "each exposure" expert opinions  
 • Standards for specific causation  
 • The Lohrman standard – what is it and how broadly is it being applied?  
 • Borg-Warner – how long will it last & will it expand to other jurisdictions?  
 Christian Hartley, Esq., HartleyLaw, LLC  
 David Oliver, Esq., Vorys, Sater, Seymour and Pease  
 Hon. Sandra Mazer Moss, Philadelphia Court of Common Pleas  
 Hon. Martin Shulman, New York Supreme Court

2:30 Asbestos Claims Processing  
 • What bankruptcy trusts are operating and what are they paying?  
 • Timing of claims filing  
 • Best Practices – efficient methods for claim submissions  
 • Avoiding mistakes – areas of concern for claimant processing & payment  
 • W-9 forms, tax issues, 1099's to clients  
 • TDP's and processes within that may benefit defendants  
 • Accounting for the money still in trust, the value of average mesothelioma claims & future projections on claims vs. assets and funds availability in trust  
 Francis McGovern, Esq., Professor of Law, Duke University School of Law  
 Larry Haden, President, Claims Resolution Management Corporation  
 Nicholas Vari, Esq., K&L Gates

3:45 The Surge in Bankruptcy Trust Payouts: Can You Make Everyone Happy? Maximizing Recoveries and Creating Fair Credit Allocation  
 • What adjustments should be made in the tort system to account for the bankruptcy payouts?  
 • What disclosure obligation should exist regarding pending trust claims, actual payouts, and expected future trust filings?  
 • Should the tort system encourage or leverage plaintiffs to file claims with the Trusts before the claims leave the system?  
 • Third party practice and the Defendants' interaction with the Trusts  
 Moderator: Joseph O'Hara, Jr., Esq., V.P. & Associate G.C., Owens-Illinois  
 Hon. Richard Aulisi, Supreme Court Justice, 4th Judicial District of New York  
 Hon. Ken Kawaichi, (Ret.), JAMS  
 Hon. James McBride, Superior Court of California, San Francisco  
 Joseph Belluck, Esq., Belluck & Fox LLP  
 Eliot Jubelirer, Esq., Schiff Hardin LLP

5:15 Closing Remarks and Networking Reception  
 Sponsored by Belluck & Fox LLP and Gordon & Rees, LLP

**THURSDAY, SEPTEMBER 24, 2009**

7:15 Women's Networking Breakfast Workshop on Enhancing Business Development Skills  
 • How to develop effective strategic relationships and build your client base  
 • Speaker-led, group discussions on how to improve personal marketing strategies  
 • Creation of a referral network for women attorneys attending the program  
 Ameer Mikacich, Esq., Filice Brown Eassa & McLeod LLP  
 Linda Monica, Esq., Monica & Associates, P.C.  
 Lisa Pascarella, Esq., Pehlivanian Braaten & Pascarella LLC  
 Anita Pryor, Esq., Terrell Hogan

8:00 Continental Breakfast

8:30 Asbestos in the Political Arena  
 • State legislative update: the reoccurring Crown Cork Bill and recent happenings in Florida, Texas and Washington  
 • National briefing: legislative and regulatory updates  
 • Non-asbestos legislative initiatives influencing the asbestos litigation  
 • Asbestos liabilities in the Chrysler/GM bankruptcies  
 Mark Behrens, Esq., Shook, Hardy & Bacon L.L.P.  
 Hon. Mark Davidson, Texas MDL Asbestos Judge  
 Randy Rabinowitz, Esq., Law Offices of Randy Rabinowitz-Consultant to the AAJ

9:15 Federal MDL Update  
 • What will be left of the non-malignants and what will happen to the mesotheliomas?  
 • Status of asbestos trials in federal court  
 John Herrick, Esq., Motley Rice LLC  
 Walter Watkins, Jr., Esq., Forman Perry Watkins Krutz & Tardy LLP

10:00 Morning Break

10:15 "Hot" Jurisdictions: California, Illinois, New York, Pennsylvania & Texas  
 • Verdicts, filing trends, and new rulings  
 Hon. Mark Davidson, Texas MDL Asbestos Judge  
 Hon. Sherry Klein Heitler, New York State Supreme Court  
 Hon. Sandra Mazer Moss, Philadelphia Court of Common Pleas  
 Hon. Daniel Stack, Circuit Judge, Madison County Circuit Court  
 Hon. Elihu Berle, Civil Supervising Judge, Los Angeles Superior Court  
 John Comerford, Esq., Lipsitz & Ponterio, L.L.C.  
 William Mahoney, Esq., Segal McCambridge Singer & Mahoney, Ltd.  
 Matthew Reber, Esq., Kelley Jasons McGowan Spinelli & Hanna, LLP  
 James Scadden, Esq., Gordon & Rees, LLP, San Francisco

11:15 Strategies on Preserving Asbestos Medical Evidence  
 • Access to pathology  
 • Tissue preservation  
 • Dealing with hospitals and treating physicians  
 Moshe Maimon, Esq., Levy Phillips & Konigsberg, LLP  
 Michael Weathersby, Esq., Evert Weathersby Houff

- 12:00 **Defense and Plaintiff Break-Out Luncheon to Discuss:  
How to Find the Common Ground and Bipartisan Solutions**
- 1:15 **Household Exposure Cases**
- What do the recent decisions teach us regarding the “duty” analysis?
  - Are the number of household cases increasing?
  - What are the special challenges of household cases at trial?
- Michael Brown, Esq., Brown and Sheehan, LLP  
Christian Gannon, Esq., Segal McCambridge Singer & Mahoney, Ltd.  
Jonathan Ruckdeschel, Esq., The Ruckdeschel Law Firm  
Hon. Daniel Stack, Circuit Judge, Madison County Circuit Court
- 2:00 **Jury De-Brief Session - Discussion with Actual Jurors from a Key  
California Asbestos Case**
- Jurors, judges, and lawyers will gather to have an interactive discussion.*
- Jury charges and key factors contributing to the jury’s decision
  - Impression of the experts and juror understanding of the evidence
  - Key judicial rulings impacting the case
- Moderator: Susan Fillichio, Esq., Senior Vice President, DecisionQuest  
Robert Thackston, Esq., Hawkins, Parnell & Thackston, LLP  
Gary Paul, Esq., Waters & Kraus LLP  
Hon. Martin Shulman, New York Supreme Court  
Hon. Elihu Berle, Civil Supervising Judge, Los Angeles Superior Court  
A juror from recent *Prough* case  
A juror from the recent *Beauchamp* case
- 3:15 **Afternoon Break**
- 3:30 **Aggregate Dose Technology and Using it in Court**
- Developments in exposure assessment and dose reconstruction
  - Challenges to admissibility
- Peter Kraus, Esq., Waters & Kraus LLP  
James Rasmuson, Ph.D., C.I.H., D.A.B.T., Senior Scientist & Chief  
Executive Officer, Chemistry & Industrial Hygiene, Inc.  
Colin Kelly, Esq., Alston & Bird LLP
- 4:15 **Improving the Settlement Process**
- Ways to engage counsel in productive settlement discussions sooner
  - Benefits of early case resolution, especially in today’s economy
  - The judge’s role in early case resolution
- Moderator: Michael Pietrykowski, Esq., Gordon & Rees, LLP  
Hon. Richard Aulisi, Supreme Court Justice, 4th Judicial District of New York  
Hon. Elihu Berle, Civil Supervising Judge, Los Angeles Superior Court  
Hon. Mark Davidson, Texas MDL Asbestos Judge  
Hon. Victor DiNubile, Philadelphia Court of Common Pleas  
Hon. Sherry Klein Heitler, New York State Supreme Court  
Hon. Sandra Mazer Moss, Philadelphia Court of Common Pleas  
Hon. Daniel Stack, Circuit Judge, Madison County Circuit Court  
Laraine Pacheco, Esq., Special Master, New York City Asbestos Litigation,  
Law Office of Laraine Pacheco  
Joseph Colao, Esq., Leader & Berkon LLP  
Mark Iola, Esq., Stanley, Mandel & Iola  
Lisa Pascarella, Esq., Pehlivanian Braaten & Pascarella LLC
- 5:45 **Closing Remarks and Networking Reception**

FRIDAY, SEPTEMBER 25, 2009

- 8:00 **Continental Breakfast**
- 8:30 **Ethics Mock Negotiation Session: Ethical Issues in the Settlement  
of Asbestos Matters with Multiple Parties**
- How truthful must you be in your settlement discussion and be within the bounds of professional responsibility?
  - Ethical concerns involved with entering into settlement agreements with multiple parties
  - Conflict of interest — representing more than one party during settlement and/or at trial
  - Strategies for protecting privileged information as a co-defendant
  - Theories of fiduciary duties for co-defendants
- Jameson Carroll, Esq., King & Spalding LLP  
Laraine Pacheco, Esq., Special Master, New York City Asbestos Litigation,  
Law Office of Laraine Pacheco  
Dean Hanley, Esq., Paul & Hanley, LLP
- 9:30 **The Changing Case Against Equipment Defendants**
- Analysis of the recent Washington decisions, Simonetta and Braaten, and the California case, Taylor
  - Replacement components - who made them and who supplied them?
  - Is a design defect claim still viable?
  - Non-Navy equipment cases
- Terry Budd, Esq., K&L Gates  
Ilana Waxman, Esq., Galihier DeRobertis Ono  
Marc Gaffrey, Esq., Hoagland, Longo, Moran, Dunst & Doukas LLP
- 10:30 **Morning Break**
- 10:45 **Judicial Roundtable & Conference Summary**
- Effective motion practice
  - How to get or overcome a summary judgment motion
  - Discovery disputes
  - Synthesis of a “Call to Action” for asbestos litigators going forward
- Moderator: Joseph Belluck, Esq., Belluck & Fox LLP  
Hon. Richard Aulisi, Supreme Court Justice, 4th Judicial District  
of New York  
Hon. Elihu Berle, Civil Supervising Judge, Los Angeles Superior Court  
Hon. Mark Davidson, Texas MDL Asbestos Judge  
Hon. Victor DiNubile, Philadelphia Court of Common Pleas  
Hon. Sherry Klein Heitler, New York State Supreme Court  
Hon. James McBride, Superior Court of California, San Francisco  
Hon. Sandra Mazer Moss, Philadelphia Court of Common Pleas  
Hon. Daniel Stack, Circuit Judge, Madison County Circuit Court
- 12:15 **Adjourn**

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