

# Lead Litigation

May 19, 2009 | The Hub Cira Centre at 30th Street Station, Philadelphia



**CONFERENCE CHAIRS:**

Steven J. Rice, Esq., Harris Beach PLLC, New York  
 Peter Danziger, Esq., O'Connell & Aronowitz, Albany, NY

Tuesday, May 19, 2009

9:30 Registration & Continental Breakfast

10:00 Pre-Action Issues

- Potential Defendants
  - Physician and clinics - medical malpractice
  - LLC owner's personal liability
  - Managing agents - independent contractors
  - Municipalities- DOH
  - Housing authorities
- Notice of Claim and Statute of Limitation
- Potential Plaintiffs
  - Parent's derivative claim
  - Other siblings
  - Punitives – pros and cons
- Insurance Issues
  - Finding coverage
  - Disclaiming coverage
  - Setting reserves

Delsia Marshall, Esq., Fitzgerald & Fitzgerald P.C., Yonkers, NY

10:30 Defending the Landlord

- Factual Investigation of client/landlord
    - interview client and potential witnesses
    - contact opposing counsel to discuss basic facts and begin dialogue
    - consideration of impleader of additional parties – other residences, prior/subsequent owners, abatement contractors
    - analysis of client records
  - Answer and Demands
  - Analysis of records – Medicals (including pre-natal and delivery) Schools, DOH, Section 8, Dept. of Buildings, Social Services
  - Evaluation of damages – alternative causes
  - Depositions
  - IME's
  - Expert retention
- Thomas Cullen, Esq., Goodell, DeVries Leech & Dann, LLP, Baltimore

11:00 Discussion of Notice and Regulatory Issues

- Constructive Notice
    - Section 8 and HUD Housing Quality Standards as notice
    - Federal disclosure requirements as notice
    - Local regulations as notice
    - New York, New Jersey, Pennsylvania, Maryland
- Moderators: Steven Rice, Esq., Harris Beach PLLC, New York and Peter Danziger, Esq., O'Connell & Aronowitz, Albany, NY  
 Thomas Cullen, Esq., Goodell, DeVries Leech & Dann, LLP, Baltimore  
 Delsia Marshall, Esq., Fitzgerald & Fitzgerald P.C., Yonkers, NY  
 Paul Bottari, Esq., Wilson Elser Moskowitz Edelman & Dicker LLP, New York

11:30 Pre-Trial Issues

- Confounding factors
  - drugs, alcohol, smoking
  - abuse, domestic violence
  - genetic correlations
  - alternate causes – birth injuries, asthma, hearing loss, etc.
  - socioeconomic factors
- IME's
  - choosing the expert
  - attending the exam
  - exchanging reports

• Discovery Disputes

- family history
- CPS records
- landlord "other property"
- sibling and parent records
- Motions in limine
  - speculative other causes
  - bad family
  - other siblings

• "A" proximate cause, or "the" proximate cause

Lawrence Cohan, Esq., Anapol Schwartz, Philadelphia  
 Paul Bottari, Esq., Wilson Elser Moskowitz Edelman & Dicker LLP, New York

12:15 Luncheon and Keynote Address

National Lead Litigation Update –  
 Public Nuisance Cases, Municipal Cases and Lead in Toys  
 Christopher Gannon, Esq., Segal McCambridge Singer & Mahoney, Ltd., New York

1:15 Special Settlement Issues

- Structured settlement annuities
  - insurance company control and conflicts
  - loss of public assistance and Medicaid benefits
- Supplemental needs trusts
  - severe disability required
  - preservation of public assistance and Medicaid benefits
  - attorney liability for failing to consider
- Liens
  - what expenses are lienable
  - medicine for ADHD
  - counseling
  - negotiating liens
  - hiring consultants
  - attorney liability

Edward Wilcenski, Esq., Jones Wilcenski & Pleat PLLC, New York

2:00 Update on Science and Medicine

- Low level lead exposure – analysis of recent studies
  - Injuries to other systems and organs
- Carla Campbell, MD, MS. Clinical Associate Professor of Pediatrics, University of Pennsylvania School of Medicine, Attending Pediatrician The Children's Hospital of Philadelphia Primary Care Center at Univeristy City, Associate Teaching Professor, Drexel School of Public Health , Philadelphia

3:00 Afternoon Break

3:15 Practical Overview of Neuropsychological Testing

- What and why are the tests that are administered?
  - How are the tests administered?
  - How are the tests interpreted?
- Carmen Vazquez, Ph.D., Clinical Professor of Psychiatry, NYU School of Medicine, New York

4:15 Lead Inspection and Risk Assessment Protocols for Childhood Lead Exposure Cases

- Review of methodologies and interpreting findings
  - Differences in public agency versus expert consultant practices
  - Assessing exposures to low lead levels – alternative theories
- Vincent Coluccio, DrPH, Senior Environmental Health Consultant, TRC Corp., New York, NY

5:30 Networking Reception