

American Conference Institute's  
9th National

DANGER  
ASBESTOS HAZARD

Expert Strategies for  
Litigating, Settling and  
Managing the New Wave of

# ASBESTOS CLAIMS

May 15-16, 2008 • Rio All-Suite Hotel & Casino • Las Vegas

## Featuring Two Bonus Sessions:

### Claims Migration: Tort Reform and the Evolving Jurisdictional Landscape

*Hon. Mark Davidson*  
Texas MDL Asbestos Judge  
11th District Court

*Michael L. Armitage*  
Managing Partner, Los Angeles Office  
Waters & Kraus, LLP

### Asbestos Settlements: Obtaining the Best Outcome for Your Client

*Hon. James Robertson*  
San Francisco Superior Court

*Dean A. Hanley*  
Partner  
Paul & Hanley LLP

*Edward R. Hugo*  
Partner  
Brydon Hugo & Parker

Don't Miss the Interactive Workshop – May 14, 2008  
Mastering the Complexities of Bankruptcy in the  
Litigation, Settlement and Management of Asbestos Claims

## Gain expert advice and strategic insights on:

- Preparing for new theories of liability and new classes of defendants
- Benefiting from recent tort reforms and changing causation standards in key jurisdictions
- Resolving conflicts and improving communication among insurers, policyholders, and defense counsel
- Viability of bankruptcy alternatives and the impact of bankruptcy trusts on asbestos claims
- Mastering discovery, jury selection, and trial strategies to build a winning case
- Using the latest information from the medical frontier to your advantage

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## New claims, new defendants, and new jurisdictions . . .

### Are you prepared for the challenges and opportunities of the evolving asbestos landscape?

Between recent tort reforms in key jurisdictions and new theories of liability in asbestos litigation, the old rules no longer apply. Plaintiffs' and defense counsel, as well as in-house counsel for insurers, reinsurers, property owners and other companies likely to face the new round of asbestos claims, must be prepared.

American Conference Institute's 9th National Asbestos Claims event will provide you with the most-up-to-date knowledge, strategies, and expert advice that you need to:

- Prepare for new theories of liability and new classes of defendants, including claims against manufacturers of products that do not contain asbestos and "take-home" premises liability exposure claims
- Benefit from recent tort reforms and changing causation standards in key jurisdictions
- Use the latest information from the medical frontier to your advantage
- Resolve conflicts and improve communication among insurers, policyholders, and defense counsel
- Understand the impact that bankruptcy trusts have on asbestos claims and analyze the viability of bankruptcy alternatives
- Master discovery, jury selection, and trial strategies to build a winning case
- Accurately assess and manage future liabilities

Take advantage of this opportunity to network with asbestos claims experts while learning the most current strategies and techniques that you need in order to be prepared for the new wave of asbestos claims. This must-attend event will fill up quickly, so register today by calling 1-888-224-2480 or by faxing your registration form to 1-877-927-1563. You can also register online at [www.AmericanConference.com/asbestos](http://www.AmericanConference.com/asbestos).

#### Who You Will Meet

Attorneys specializing in

- Asbestos
- Silica
- Toxic Torts
- Product Liability
- Premises Liability
- Environmental Litigation
- Insurance
- Reinsurance

Corporate counsel and executives from

- Insurers
- Reinsurers
- Manufacturers and Property Owners

#### Continuing Legal Education Credits



Accreditation will be sought in those jurisdictions requested by the registrants which have continuing education requirements.

This *transitional* course is appropriate for both experienced and newly admitted attorneys.

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*Wendy Tyler*

Group Leader & Business Development Executive  
American Conference Institute

Tel: 212-352-3220 x242

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[w.tyler@AmericanConference.com](mailto:w.tyler@AmericanConference.com)

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**Wednesday, May 14, 2008**  
**Pre-Conference Workshop**  
**2:00 p.m. – 5:00 p.m.**  
(Registration Begins at 1:30 p.m.)

## Mastering the Complexities of Bankruptcy in the Litigation, Settlement and Management of Asbestos Claims

*Leslie A. Davis*  
Counsel  
Crowell & Moring (Washington, DC)

*Robert M. Horkovich*  
Shareholder  
Anderson Kill & Olick, P.C. (New York, NY)

Given the number of companies faced with or currently in bankruptcy due to asbestos liabilities, insurers, policyholders, plaintiffs' and defense attorneys need to be prepared for the bankruptcy process. This interactive workshop will give participants the opportunity to work closely with industry leaders intimately familiar with the unique issues and challenges that each party involved with an asbestos-related bankruptcy will confront. Participants will come away from this experience with a greater understanding of the state of asbestos-related bankruptcies as well as practical strategies for traversing the current landscape. Plaintiffs' and defense attorneys, as well as executives and in-house counsel from insurance and reinsurance firms, manufacturing companies, and property owners, will all benefit from this interactive session covering:

- What needs to be addressed after the bankruptcy petition has been filed
- Interests that parties should seek to protect throughout the course of bankruptcy
- The "bankruptcy hurdle" – an analysis of each party's approach to bankruptcy and how it impacts the treatment and resolution of asbestos claims
- Determining the "ideal" result for each party
- Achieving results to which all parties can agree
- 524(g) and the traditional asbestos bankruptcy paradigm
- Analysis of cases that have eschewed 524(g)
  - Dana Corporation
  - Collins & Aikman Corporation
- Comparison of the paths to bankruptcy
  - Pre-packaged bankruptcy
  - Pre-negotiated bankruptcy
  - "Free-fall" bankruptcy
- Advantages and drawbacks of bankruptcy resolution options
  - 524(g)
  - Non-524(g)
  - Liquidation
  - Reorganization

You will come away from this practical workshop with the techniques and knowledge of an industry veteran. Space will fill up quickly so register today!

**Thursday, May 15, 2008**

**7:30 Registration Opens and Continental Breakfast**

**8:30 Opening Remarks from Conference Co-Chairs**

*Michael L. Armitage*  
Managing Partner, Los Angeles Office  
Waters & Kraus, LLP (Los Angeles, CA)

*Edward R. Hugo*  
Partner  
Brydon Hugo & Parker (San Francisco, CA)

**8:45 Evolution of the State-Of-the-Art Defense:  
Manufacturers, Distributors and  
Plaintiffs' Employers**

*Ron C. Eddins*  
Partner  
Simon, Eddins & Greenstone, LLP (Long Beach, CA)

*John M. Fitzpatrick*  
Partner  
Wheeler Trigg Kennedy LLP (Denver, CO)

*Karleen F. Murphy*  
Senior Associate  
Brydon Hugo & Parker (San Francisco, CA)

- Determining fault of the plaintiff's employer:
  - Employer's training methods
  - Employer's responsibility to provide a safe working environment
- Use of required products
- Lack of alternative or substitute products
- Mandatory warnings
- Restrictions on warnings

**9:45 New Theories, New Defendants: Preparing  
for Current and Emerging Asbestos Claims**

*Mark A. Behrens*  
Partner  
Shook, Hardy & Bacon LLP (Washington, DC)

*Paul C. Cook*  
Partner  
Waters & Kraus, LLP (Los Angeles, CA)

*Dean A. Hanley*  
Partner  
Paul & Hanley LLP (Berkeley, CA)

*Barry R. Ostrager*  
Partner, Head of the Litigation Department  
Simpson Thacher & Bartlett LLP (New York, NY)

- Bringing and defending against duty to warn claims for third party asbestos-containing products
  - External insulation
  - Component parts
  - Replacement parts
- Mastering the latest strategies regarding premises liability and secondhand exposure
- Anticipating and preparing for the next wave of asbestos claims and defendants

## 11:00 Networking Coffee Break

### 11:15 Plaintiff v. Defendant: Practical Application of the New Liability Theories and Defense Strategies

Plaintiffs' and defense counsel from the first two sessions will engage each other in mock arguments that simulate the courtroom experience and reveal the intricacies of the issues covered in the morning sessions. Our expert panelists will put their many years of trial experience to work in order to provide you with a unique look at the current state of asbestos litigation. You will leave this session with the strategies and knowledge needed to strengthen your own case and weaken your opponent's.

## 12:00 Networking Luncheon

### 1:15 Claims Migration: Tort Reform and the Evolving Jurisdictional Landscape

*Hon. Mark Davidson*  
Texas MDL Asbestos Judge  
11th District Court (Houston, TX)

*Michael L. Armitage*  
Managing Partner, Los Angeles Office  
Waters & Kraus, LLP (Los Angeles, CA)

- Where claims are migrating to and why
- Impact of recent tort reforms in Texas and other states
- Which jurisdictions are likely to adopt similar reforms and which are not
- Tort reform and the future of unimpaired claims
- Obtaining a friendly forum for your case

### 2:15 Strengthening Your Case with the Latest Information from the Medical Frontier

*David M. Katzenstein*, Partner

*Charles M. McGivney*, Partner  
McGivney & Kluger P.C. (Florham Park, NJ)

- Impact of DNA testing on causation issues involving malignancy
- Update on the state-of-the-art defense: the Mount Sinai debate
- Making use of the latest low-dose exposure research

## 3:00 Afternoon Refreshment Break

### 3:15 Discovery and Use of Bankruptcy Claims

*Kurt L. Rasmussen*  
Member  
Rasmussen, Willis, Dickey & Moore, L.L.C.  
(Kansas City, MO)

*Charles S. Siegel*  
Partner  
Waters & Kraus, LLP (Dallas, TX)

- Determining plaintiff's full claimed asbestos exposure through discovery of prior claims made
- Using prior claims to defeat or diminish allegations against solvent parties
- Where and when prior claims are admissible

## 4:00 Considerations When Confronting Asbestos Bankruptcies

*Leslie A. Davis*  
Counsel  
Crowell & Moring (Washington, DC)

*Robert M. Horkovich*  
Shareholder  
Anderson Kill & Olick, P.C. (New York, NY)

*Bret C. Cohen*  
Senior Associate  
Willkie Farr & Gallagher LLP (Washington, DC)

- Best practices to secure compensation and set-offs from trust funds
- How asbestos claims are being impacted by companies that have recently entered into or emerged from bankruptcy
- Overcoming the obstacles that insurance and reinsurance companies often face when working with companies that are in bankruptcy or run-off
- Outlook for pre-packaged bankruptcies
- Implementing viable alternatives to bankruptcy
- Asbestos risk transfers – unlocking the latent value of unimpaired assets through separation of asbestos liabilities
  - Spinning off asbestos liabilities to arbitrageurs and investors using a combination of cash, assets, and/or insurance layers
  - Over-funding worst plausible case estimates using inexpensive insurance and other guaranties

## 5:15 Conference Adjourns for the Day

Friday, May 16, 2008

## 7:30 Continental Breakfast

## 8:00 Co-Chairs' Recap and Remarks

## 8:15 Benefiting From Evolving Causation Standards

*Tim Gray*  
Partner  
Forman Perry Watkins Krutz & Tardy LLP

*Gilbert L. Purcell*  
Partner  
Brayton Purcell LLP (Novato, CA)

*John B. Thomas*  
Partner  
Hicks Thomas & Lilienstern, LLP (Houston, TX)

### Moderator:

*Edward R. Hugo*  
Partner  
Brydon Hugo & Parker (San Francisco, CA)

- Status of causation requirements in key jurisdictions
- Impact of *Borg-Warner* and *In Re Allied Chemical* in Texas and beyond
- Presenting a strong *de minimis* defense
- Adjusting to new requirements relating to specific causation and general causation
- Using alternative theories of causation to your advantage

## 9:45 **Improving the Relationships Among Insurers, Policyholders, and Defense Counsel**

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*Michael Conley*

Shareholder

Anderson Kill & Olick, P.C. (Philadelphia, PA)

*John H. Kazanjian*

Principal

Beveridge & Diamond P.C. (New York, NY)

*Tancred V. Schiavoni*

Partner

O'Melveny & Myers LLP (New York, NY)

- Facilitating communication between insurers and defense counsel
- Understanding and managing the expectations of the other parties
- Behind closed doors – what really goes on during defense and plaintiff counsel negotiations
- Finding common ground for insurers, policyholders, and defense counsel on the questions of whether and when to settle and for how much
- Anticipating when asbestos claims will be treated as a single occurrence and when they will be treated as multiple occurrences

## 10:45 **Networking Coffee Break**

## 11:00 **Asbestos Settlements: Obtaining the Best Outcome for Your Client**

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*Hon. James Robertson*

San Francisco Superior Court (San Francisco, CA)

*Dean A. Hanley*

Partner

Paul & Hanley LLP (Berkeley, CA)

*Edward R. Hugo*

Partner

Brydon Hugo & Parker (San Francisco, CA)

Settlement considerations are paramount in any asbestos litigation and all parties involved have a major stake in the outcome. This session will provide a unique opportunity to hear from an experienced asbestos settlements judge as well as leading counsel for both plaintiffs and defendants as they discuss the various considerations, challenges, and opportunities that face each party to a potential settlement.

## 12:00 **Networking Luncheon**

## 1:15 **Discovery, Jury Selection and Trial Strategies for Building a Winning Case**

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*Michael L. Fox*

Partner

Sedgwick, Detert, Moran & Arnold LLP (San Francisco, CA)

*Michael T. McCall*

Partner

Walsworth Franklin Bevins & McCall, LLP (Orange, CA)

*Sarah E. Murray*

Senior Consultant and Chief Information Officer  
Trial Behavior Consulting, Inc. (San Francisco, CA)

- Managing discovery difficulties that frequently arise in asbestos litigation
- Improving your odds of success through careful jury selection and a comprehensive understanding of juror motivations
- Maximizing the effectiveness of expert testimony
- Proving alternative exposures and comparative fault

## 2:15 **Ethics and Asbestos Litigation: Advocating on Behalf of Your Client While Avoiding Ethical Dilemmas**

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*Patrick M. Hanlon*

Visiting Professor of Law

University of California, Berkeley

Boalt Hall School of Law (Berkeley, CA)

*Thomas A. Packer*

Partner

Gordon & Rees LLP (San Francisco, CA/Portland, OR)

- Ethical considerations in the prosecution and defense of screening cases
- Representation of co-workers and former employees
- Considerations when prepping witnesses
- Bankruptcy trust claims, civil litigation, and ethical responsibility

## 3:15 **Afternoon Refreshment Break**

## 3:30 **Assessing and Managing Future Liabilities**

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*Jennifer L. Biggs*

Principal

Towers Perrin (St. Louis, MO)

*Edward J. McCambridge*

Partner

Segal McCambridge Singer & Mahoney (Chicago, IL)

- Asbestos-related disease incidence
- Claim filing trends
- Claim and defense cost trends
- Methods used to project the number and cost of future claims
- Changes in the litigation environment and how they impact estimates of future claim liabilities

## 4:30 **Depositions of Custodians of Records/Persons Most Knowledgeable**

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*John M. Fitzpatrick*

Partner

Wheeler Trigg Kennedy LLP (Denver, CO)

- Preparing and taking COR/PMK depositions in asbestos cases
- Pitfalls to avoid
- Theories of attack
- Admissions versus ignorance
- Balance of knowledge versus response

## 5:15 **Conference Adjourns**



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### Registration Fee

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