

FEDERATION OF DEFENSE & CORPORATE COUNSEL



FDCC

DEFENSE LAWYERS. DEFENSE LEADERS.



April 12, 2024 -- Issue 219

Good Morning!

Here are your 5+ things to know on developments, upcoming events and progress being made on initiatives the Federation of Defense & Corporate Counsel is undertaking on behalf of all our members.

#1 Calling All FDCC Olympians!



Vicki Smith



Chris Teske

In anticipation of the XXXIII Olympiad, [Vicki Smith](#) of [Chinn Smith Winters, LLP](#) in Lake Oswego, OR and [Chris Teske](#) of [Pipes Miles Beckman, LLC](#) in

New Orleans, LA are looking for other FDCC members with significant athletic experience to join them on a new podcast.

Vicki and Chris are both accomplished athletes who are interested in the connection between how athletes train for their chosen sports and how they practice as lawyers. They are also interested in how current competitors make time for their chosen sport while managing their practice. Most of all, they want to hear from their fellow FDCC members and share their stories and experiences in high level competition with the rest of the Federation!

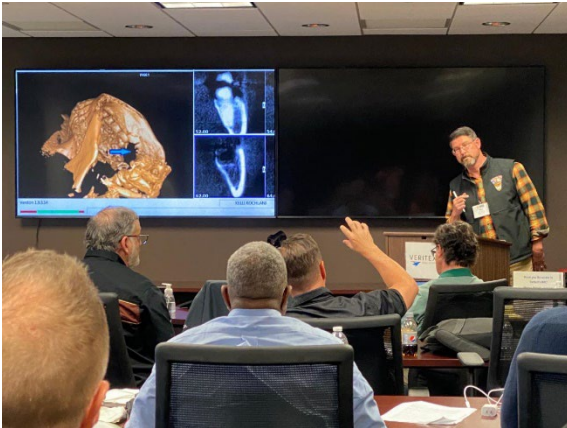
So, whether you are an Olympic hopeful or athlete; an accomplished long-distance runner; a competitive volleyball player; a curler; an ex-college athlete with a great story or two to tell; or an official who has worked in national or international competition, they want to talk with you! Members who are interested in recording an episode of the podcast are encouraged to reach out to either Vicki or Chris with a short note about your athletic background and any suggestions for topics you would like to chat about on the show.

Please email Vicki at smith@csw-law.com and Chris at: cteskenola@gmail.com for further details. we look forward to hearing from you.



You can listen to the FDCC's FedSpeaks podcasts on Spotify, iTunes, Stitcher, the Fed365 app or wherever you get your podcasts. Find out what over 10,100 listeners have already discovered by downloading and subscribing to these enlightening episodes by, about and for members of the FDCC.

#2 Last Call to Become a Technology Master Advocate



There are still a few seats left if you or one of your colleagues would like to enhance your presentation skills by attending **FedTechU in Miami, FL, April 19-21, 2024.**

Learn how to create persuasive visuals to more effectively communicate case facts, themes, and/or theories to a jury, judge, arbitrator, mediator, colleagues

and/or your clients from our esteemed faculty including Chair Jimmy Wilkins, Jack Delany, Dan McCune, Ned Curry, Bob Christie, Rich Dukes, Steve Embry and Tara Cheever from LitSoftware.

As an added bonus - we've also added a session Friday afternoon, April 19th on how to understand and effectively use the various Generative AI platforms to be taught by Frank Ramos.

Participants of this course will complete the course knowing how to utilize visual communication techniques of a client's case or in any boardroom or courtroom presentation in a more persuasive and compelling way. The course will focus heavily on the software program TrialPad and utilizing it on the hardware of the iPad Pro. Members will learn from each other in an encouraging environment and will pick up useful techniques for making presentations. In the weeks leading up to the actual course, registered participants will be able to speak with faculty members to discuss problems and issues as well as learn the technology.

[Click here to register for FedTechU](#)

#3 Examining Medical Necessity By: Dr. John Schneider & Cara Scheibling

Our colleagues at Avalon Economics have agreed to share their expertise in a 5 part series that briefly discuss 5 strategies that can be employed to help manage medical expenses in personal injury and product liability cases. Here's Part 3...



In some personal injury and product liability matters, claimants put forth a “life care plan” (LCP) that details what they allege will be *medically necessary* in the future to mitigate harms alleged to have been caused by an incident, exposure, etc. The author of the LCP, or some other medical care provider, provides an opinion regarding medical necessity. This week’s strategy #3 is very simple, and similar to the

preceding strategies. And that is to never assume that the claimant’s assessment of medical necessity accurately reflects some objective measure of medical necessity.

Any assertion of medical necessity can be challenged, even if it seems plausible at first glance. However, some types of medical services are highly variable in terms of utilization rates, and health economists generally regard high variation in treatment patterns as indicative of the presence of unnecessary and inappropriate care. Put differently, the medical profession is probably not as precise and consistent in its approach to diagnosis and treatment as the general public tends to believe. This means that an LCP could contain alleged future needs that would not be considered medically necessary or appropriate by other providers.

This is where a two-pronged strategy of:

- (1) a detailed review of the medical literature, and
- (2) expert testimony from a medical care provider *familiar with the literature* can be a critical part of a case medical losses.

Having a medical care provider cite literature can help avoid the battle of medical experts possibly undermining the medical necessity discussion by reducing it to simply opposing opinions.

Coming up next week: "Revisiting Life Expectancy." [Dr. John Schneider](#) is the CEO and Principal of [Avalon Health Economics](#) and [Cara Scheibling](#) is its Vice President and Principal. They have been a valued Platinum Sponsor of the FDCC for many years and invite you to visit them at the Annual Meeting, July 28-August 3, 2024 in Toronto, ON.

#4 Rule 702 Update

DON'T SAY ~~DAUBERT~~

Alex Dahl and Dan Steen, our colleagues at Lawyers for Civil Justice, report that the Michigan Supreme Court has adopted the amendment to Michigan Rule of Evidence 702 on expert evidence admissibility, effective May 1.

Click here to read the [Court's Order](#). Michigan now joins Arizona in bringing its expert evidence rule in line with the amended federal rule.

LCJ will include an update on the amended Michigan rule on its website: www.dontsaydaubert.com and will plan to report on Michigan and other state activities at its upcoming April 25th working group call.

They have also shared a paper by Lee Mickus published by the Washington Legal Foundation "[The First 100 days of Amended FRE 702: The Good, the Bad, the Ugly, and the Next Steps](#)." The paper analyzes the first 100 days of decisions on the Rule 702 amendment and recommending steps attorneys can take in court to ensure federal and state court practices are consistent with the rule. The paper is part of the WLF's critical legal issues working paper series.

We continue working with LCJ on efforts on both the federal and state levels and will keep you informed of further developments.

#5 Welcome Our New Member

Please join us in welcoming the following new member who has been admitted to our membership:





Raven F. Benoit is a Shareholder with **Duplass APLC** in Metairie, LA where her practice is focused on defending corporations and their insurers in matters involving complex trucking and transportation litigation, product liability, insurance coverage, general liability, and personal injury claims. She is also one of the firm's 24/7 Emergency Response

Team leads. Prior to her current practice, she was at a regional, boutique trucking and transportation defense firm and has devoted much of her passion and practice to the industry since.

She routinely defends and advises leading national and regional LTL and FTL trucking carriers and their insurers in matters ranging from multi-injury catastrophic accidents and citation defense to DOT, LADOT, and FMCSA regulation and compliance. Raven and her husband **Sean** reside in New Orleans, LA.

Welcome Aboard, Raven!

#5.1 What's on the Docket?



Please register and mark your calendar to attend the following FDCC events of relevant and timely substantive content:

- **April 19 - 21, 2024: FedTechU - Become a Technology Master Advocate** at LitSoftware:255 Giralda Avenue, Coral Gables, FL; Chair: [Jimmy Wilkins](#). [Click here to register](#).
- **July 28 - August 3, 2024: FDCC Annual Meeting at the Fairmont Royal York Hotel in Toronto, ON.** Convention Chair: [Marisa Trasatti](#); Program Chair: [Tiffany Alexander](#).
- **September 15-17, 2024: Corporate Counsel Symposium** at The Windsor Court Hotel in New Orleans, LA. Co-Chairs: [April Berman](#), [Valerie Kellner](#) & [Shelly Masters](#)
- **February 23-27, 2025: Winter Meeting** at the The Charleston Place Hotel in Charleston, SC. Registration Coming Soon! Convention Chair: [Jeff Kelsey](#) and Program Chair: [Dan McGrath](#)
- **July 27 - August 2, 2025: Annual Meeting** at the [Stein Erikson Lodge](#) & [The Chateaux at Deer Valley](#) in Park City, UT. Convention Chair: [Tiffany Alexander](#) and Program Chair: [Lee Hall](#)

...and finally,
"Have a Nice Day"
Jack Delany!



Jack Delany is a Shareholder at [Marshall, Dennehey, Warner, Coleman & Goggin](#) in Philadelphia, PA and Chair of Catastrophic Claims Litigation at the firm. He has been a valued member of the FDCC since 2011.

Jack defends catastrophic, high-profile, high-exposure cases against some of the country's most formidable plaintiff firms. With a focus on construction, asbestos and toxic torts, transportation, fire casualty and product liability, he has taken to conclusion more than 60 jury trials, as well as hundreds of bench trials, arbitrations and mediations. Additionally, Jack

represents clients in litigation involving fire and explosion claims, sexual assaults, negligent security, and hospitality and dram shop claims. He also handles specialty, high risk claims in the areas of amusements, entertainment, recreational, sports and specialty events. Additionally, Jack has represented venues, contractors and building managers to name a few, in wrongful death suits and personal injury litigation involving elevators, electronic door issues and escalators. This litigation dealt with leveling, door closing, malfunctions and prolonged elevators stuck between floors.

He represents many Fortune 500 companies directly and as insureds, and handles complex litigation matters at the federal and state levels and in administrative agencies and alternate dispute resolution forums. Jack also serves as national coordinating counsel for several product manufacturers.

And today, Jack is celebrating a birthday! Would you join us in sending him a Happy Birthday email to:

JJDelany@mdwccg.com

Congratulations Jack and all the very best to you, Juliana and the family for continued good health, success and happiness in the years to come.

Why FDCC?

"To be the inspired community of vetted defense counsel, exceptional leaders and even better people."

FEDERATION OF DEFENSE & CORPORATE COUNSEL



FDCC

DEFENSE LAWYERS. DEFENSE LEADERS.



**KEEP
CALM
AND
DEFEND
ON**

Be Exceptional Today!