

FEDERATION OF DEFENSE & CORPORATE COUNSEL



FDCC

DEFENSE LAWYERS. DEFENSE LEADERS.



April 26, 2024 -- Issue 221

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.

In today's issue:

- Welcoming our Newest Master Technology Advocates
- Countdown to Toronto - Bring the Kids Podcast
- How to Prepare for & Respond to a Fire Loss
- Dealing with Medical Funding, Liens, & Letters of Protection
- The Passing of Michael Leahy & Charles W. Havens, III
- Welcome to Our New Members
- What's on the Docket
- Have a Nice Day Kelley Barnett!

**#1 Welcome to Our Newest Master
Technology Advocates**



This past weekend, FDCC Defense Counsel member [Jimmy Wilkins](#) of [Watkins & Eager](#), and his faculty of fellow FDCC members subject matter experts, convened the 2024 session of FedTechU in Miami, FL. Attendees learned how to utilize visual communication and legal technology techniques to enhance their presentations in a more persuasive and compelling way.

The course focused on a variety of Apps and various software programs utilizing the iPad Pro, and featured a roundtable on the most efficient and innovative ways for defense and corporate counsel and industry members to implement AI technology in their daily activities.

Congratulations to the FDCC's newest class of FDCC Master Technology Advocates

- [Andrew Simpson](#): Andrew C. Simpson, P.C., Christiansted, Virgin Islands
- [Jarrod White](#): Frazier Greene, Mobile AL
- [Heidi Barcus](#): Lewis Thomason, Knoxville, TN
- [Christian Steinmetz](#): Gannam, Gnann & Steinments, Savannah, GA
- [Megan Coluccio](#): Christie Law Group, Seattle, WA
- [Clint Cox](#): Cox, PLLC, Dallas, TX
- [Cam Rasco](#): Childs McCune, Denver, CO

...and heartfelt thanks to our amazing faculty who, along with FedTechU Chair Jimmy Wilkins continue to share their knowledge and experience to further enhance the opportunities for the rest of us:

- [Rich Dukes](#): Turner Padgett, Charleston, SC
- [John Delany](#): Marshall Dennehey, Philadelphia, PA
- [Dan McCune](#): Childs McCune, Denver, CO
- [Bob Christie](#): Christie Law Group, Seattle, WA
- [Frank Ramos](#): Clarke Silverglate, Miami, FL
- [Paul Schumacher](#): DMC, Strongsville, OH
- [Stephen Embry](#): EmbryLaw, Louisville, KY
- [Ned Currie](#): Currie Johnson & Myers, P.A., Madison, MS

We are also indebted again to [Tara Cheever](#) and Ian Richardson of [LitSoftware](#) who hosted the meeting in their offices and provided additional invaluable expertise on using many of the LitSoftware designed iPad trial and presentation Apps.

#2 Countdown to the Annual Meeting in Toronto - Bring the Kids!

We're continuing to organize the CLE sessions and off-site excursions for the Annual Meeting, July 28-August 3, 2024 at the fabulous Fairmont Royal York Hotel. Convention Chair [Marisa Trasatti](#) and Program Chair [Tiffany Alexander](#) are finalizing the brochure, after which it will head to layout and then be placed on the website and emailed to you with full details about the meeting.



Heather Sanderson



Rachel Cooper



Susan Gunter



In the meantime, our **FedGlobal Countdown to Toronto 2024 Podcast** offers unique insights into memorable things to see and do. [Click on this link](#) as today, we're featuring: **Toronto for Kids & Teens**, with host [Heather Sanderson](#) and her guests [Rachel Cooper](#) and [Susan Gunter](#).

Give a listen as Rachel and Susan share their personal recommendations on things to do with the entire family. From the fun filled Toronto Island (see picture above), to where to eat, to the local amusement park "Canada's Wonderland", the Natural History Museum and its GIANT Dinosaur, High Park for trails, hills, and hikes, Yorkville, the Zoo, shopping districts for teens like the Eaton Centre, Kensington Market for thrifting, and much more! You just need to listen to this episode to hear all about the amazing things to see (including the Bat Cave!), and do during the Annual Meeting.

Remember your \$1.00 US converts to \$1.36 Canadian (you may need to bring an extra empty suitcase for all the purchases!). If you have not already done so, please [click here to register](#) to attend the meeting. You and the family will be talking about this Annual Meeting in Toronto for many years to come.



members of the FDCC.

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

#3 How to Prepare for & Respond to a Fire Loss

By: Scott Dickens



Being prepared to respond immediately to fire losses is essential for insurance companies as well as businesses whose products may be implicated in causing (or failing to suppress) fires. The ability to dispatch a carefully selected team of fire

investigators and legal counsel promptly after notice of a fire loss will maximize the chances of a successful defense of any resulting claims.

Based upon 35 years of experience investigating and defending hundreds of fire claims in the U.S. and Puerto Rico, including work with many highly-respected and seasoned fire investigators, I have developed this outline of best practices for how to prepare for a fire loss, how to equip the response team to conduct an initial fire scene inspection, and what should be done after that inspection.

1. BEFORE THE LOSS

- Have rapid response teams (outside counsel and experts) identified and ready for deployment. Time is of the essence and therefore these teams need to have been assembled in advance.
- Teams must consist of carefully vetted seasoned attorneys and experts (experienced in major fire loss investigation and highly respected).
- The chosen experts must be expected and able to answer the hard questions. Resist accepting expert conclusions without a detailed explanation of the expert's reasoning. A strong basis for conclusions is essential to a successful defense.

[Click here to read the entire article](#)

[Scott Dickens](#) is a Partner with [Fultz, Maddox Dickens](#) in Louisville, KY, where he defends manufacturers of consumer and industrial products involving personal injury, property damage, and other losses. This article is submitted on behalf of the FDCC's [Products Liability Substantive law Section](#), which you can join as a member benefit to network with others in your area of specialty.

#4 Dealing with Medical Funding, Liens, & Letters of Protection

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 5...



Personal injury cases and product liability cases increasingly rely on the use of third-party litigation financing, wherein a medical funding or medical financing company (referred to interchangeably hereafter as “MFCs”) has undertaken responsibility to pay providers for services rendered (i.e., post-incident but not including alleged future care). Although the specific structure and form of

MFC arrangements vary, in general these arrangements involve a third-party entity assuming responsibility for payment of medical services.

These arrangements are most often observed in personal injury cases where the MFC receives a percentage of the damages amount resulting from a settlement (or post-trial verdict) or a compounding interest payment on amounts owed. MFCs have also been observed in mass tort product liability cases. Nominally, proponents submit that these arrangements improve access to care for those with injuries, care that they allegedly may not have otherwise been able to obtain in the absence of third-party funding. There has been considerable growth in the MFC industry, with reports of approximately 30% growth in the number of requests from 2017 to 2021.

Though these arrangements have generally been considered legal, several serious concerns have been raised by observers and experts, and such concerns have led to numerous calls to further regulate MFCs, which currently operate with virtually no oversight. Specifically, there are four serious concerns with MFCs, each of which is discussed below.

[Click here to read the entire article](#)

[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.

#5 The Passing of Michael Leahy & Charles W. Havens, III



We are saddened to report on the untimely passing of former FDCC Defense Counsel member **Michael J. Leahy**. Mike passed away on April 2, 2024 after a courageous battle with cancer.

He had retired from Haight Brown & Bonesteel in Santa Monica, CA in 2021, where he devoted his practice to insurance law and risk transfer issues, rendering opinions, drafting insurance policies and endorsements, and litigating insurance issues in bad faith and declaratory relief/judgment actions. For 30 years, he was the senior partner in the firm's Risk Management and Insurance Law practice group, which was ranked by U.S. News & World Report in the first tier of all firms in Southern California based on its expertise and reputation. Mike had been an avid member of the Federation and frequent attendee at our meetings along with his wife and fellow FDCC Defense Counsel member, Roxanne Wilson.

For those of us who knew him, we will always remember Mike's strong spirit, unrelenting energy, and a great sense of humor. There was nothing he loved better than a good story or joke, except his nightly glass (or two) of wine. Although he was open to everyone, he didn't suffer fools gladly. He loved to travel, particularly on family vacations with his siblings and Roxanne's cousin. He enjoyed regular workouts at the gym until his health prevented them. He loved clothes which filled his very large closet at home. He was an avid reader as evidenced by the number of dead Kindles in his drawer.

There will be a memorial service in the coming months. In lieu of flowers, it was Mike's wish that any memorial tributes be made in the form of a charitable donation to the **Leahy/Wilson Scholarship Fund at LMU Loyola Law School**. **Donations may be made in memory of Mike by sending it to the**

following address: Vilaloy Warlick, AIS, Director, Gifts & Records, Loyola Marymount University, 1 LMU Drive, Suite 2800, Los Angeles, CA 90045.

In the meantime, we send our heartfelt sympathies to Roxanne and the family. Mike was an exceptional attorney, an intrepid advocate and resolute fighter against his final adversary. While we will miss his engagement with the FDCC and his many friends within the organization, he will always have a presence in our memories.



We are similarly saddened to report on the passing of **Charley Havens** on April 12, 2024 at the age of 88. He was another long-time and beloved member of the Federation.

Charley received his law degree from the University of Virginia in 1961. He was a member of the Law Review and graduated at the top of his class. He began his legal career at Covington & Burling. In 1966, Charley became the Special Assistant to the General Counsel of the

Department of Defense, working tirelessly for the Families of Vietnam POW/MIA.

In 1970, Charley became General Counsel and later President of the Reinsurance Association of America, thus starting his impressive career in insurance and reinsurance. He joined the firm of LeBoeuf Lamb Greene & MacRae in 1981 and served several years on the Executive Committee and as Vice Chairman in the firm's Washington, DC office. He was a demanding task master with high work standards, but with a twinkle in his eye and a wicked sense of humor, he both inspired and delighted his colleagues and launched the careers of many young lawyers. Charley was also a founding member of the AIDA Reinsurance and Insurance Arbitration Society (ARIAS).

We extend our heartfelt condolences to Charley's wife, Lucille with whom he shared 67 years of devotion and love, and to their son and daughter. Those who knew and remember Charley will attest to the fact that his many contributions to our profession will serve as a legacy for many years to come.

Donations in Charley's memory can be made to the Franklin & Marshall College Diplomat Athletic Club at <https://go.fandm.edu/give>.

#5.1 Welcome Our New Members

Please join us in welcoming the following new members who have been admitted to our membership:



Rusty R. Graf is a Partner and Litigation Department Chair at **Black & Wadhams** in Las Vegas, NV. Mr. Graf was appointed as a Member to the State of Nevada, Taxicab Authority in February 2023. He practices primarily in the areas of Commercial Litigation, Construction Litigation, Cannabis Law, Real Estate and Business Transactions, and Personal Injury Litigation.

He began his legal career as a Law Clerk to the Honorable Joseph Pavlikowski, Eighth Judicial District Court from 1996 to 1997, and to the Honorable Nancy A. Becker, Eighth Judicial

District Court from 1997 to 1998. Rusty and his wife **Tracie Feeley-Graf** reside in Las Vegas.



Jason P. Waguespack is a Director at **Galloway, Johnson, Tompkins, Burr & Smith** in New Orleans, LA, where he has been serving as the firm's Managing Director since 2009. Jason focuses his practice on litigation and arbitration related to all aspects of maritime and international law. He represents owners, charterers, operators, P&I clubs, and other marine insurers in all types of

marine casualty losses and contract disputes, including collisions, cargo

claims, charter party disputes, regulatory and environmental matters, and personal injuries.

He serves as national counsel to several clients with ongoing international interests, advising them not only on arbitration and litigation matters, but also on transactional matters related to business organization, operation, formation, and acquisition, as well as sales, supply, service, and carriage arrangements.

Jason is an associate professor of law at Tulane University School of Law, where he teaches the course on maritime charter parties to upperclassmen and graduate students. He is also a member of the adjunct faculty at the Tulane University A.B. Freeman School of Business, where he teaches a course on international business law, with a focus on international transactions and transportation. Jason and his partner [Jeffery Morgan](#) reside in New Orleans.

Welcome Aboard!

#5.2 What's on the Docket?



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

- **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](#)
- **FDCC Corporate Roundtable on the Intersection of DEI and ESG** moderated by [Michael Rettig](#), Global CLO and CCO of Giorgi Global Holdings, Inc. ***OPEN TO FDCC CORPORATE COUNSEL ONLY.*** [Click here to register.](#)
- **July 28 - August 3, 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"
Kelley Barnett!



Kelley is Senior Vice President and Senior Managing Counsel at AmTrust Financial Services, Inc., in Cleveland, OH, where she provides legal counsel directly to the CEO, President, CFO, CHRO, and other executives.

She leads a team responsible for overseeing employment, intellectual property, the negotiation and drafting of commercial and technology agreements, antitrust and related regulatory issues, data governance, and related litigation and other issues for AmTrust and some of AmTrust's domestic and international businesses. Kelley is also a key member of buyer side M & A legal due diligence for nearly \$1B in acquisitions, for

third-party commercial contracts, employment, litigation, compliance and other material areas impacting target valuation.

Kelley is also the Founder, and Chair Emeritus and Committee Member of the FDCC's Ladder Down program in Cleveland; and a member of the Board of Directors of the Cleveland Rape Center.

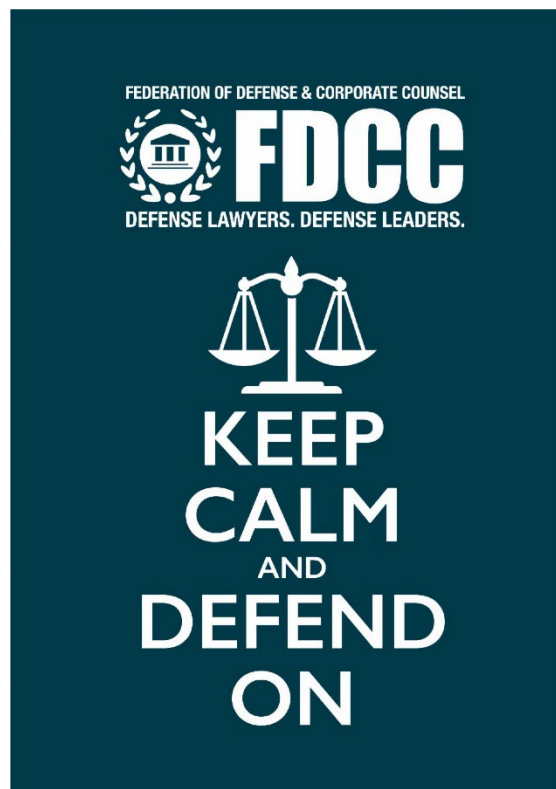
And on Monday, Kelley will be celebrating a birthday! Would you join us in sending her a Happy Birthday email to:

kelley.barnett@amtrustgroup.com

Congratulations Kelley and all the very best to you, Edgar 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."



Be Exceptional Today!