



April 28, 2023 -- Issue 169



BUILDING NETWORKS BUILDING FRIENDSHIPS

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 We Need Your Help
By: Howard Merten - FDCC President



We have been hard at work behind the scenes, exploring how we can make our meetings better and more meaningful for each and every one of you. Why? Because recent member surveys have **proven** that attending meetings and engaging with your fellow FDCC members is the surest way to grow your business and abilities as professionals, improve your careers and leadership skills, and build strong networks with industry and legal leaders who can

connect you to all the right people.

Don't get me wrong, Nashville was spectacular. And we are working hard to make Colorado Springs even better. But these are challenging times. And we are still sorting through the impact of COVID. As one example, we were wondering whether members would come back to in-person meetings. Blowing through our entire Broadmoor room block in record time seems to have answered that question, but that is one data point.

FedMEETS has put together a deep-dive survey to find out what our members really want from FDCC meetings. I know what you are thinking – 'oh geez, another survey.' This one is different. It is more in-depth. It asks more global questions about the things you like about past meetings and what you want to see in future meetings. It collects demographic data that can help us spot trends between newer and more seasoned members, active and less active members, etc. **Please take ten minutes to complete the survey you can reach HERE:** <https://www.surveymonkey.com/r/NHHKN72>.

I always tell people that FDCC members will be there if you ask them for help. I am doing that now. The more responses we get, the more responsive we can be to the needs and desires of our members.

Thank you.

**#2 Super Flush:
Not Just a Story About Super Soap
By: Anita Modak-Truran**



On the coastal shores of Mississippi, far away from the bright lights of glitzy litigation, an epic battle was fought over a solvent called “Super Flush.” A Canadian automotive specialty manufacturer and distributor filed a lawsuit against our client, a family-owned chemical manufacturer, seeking to clean them out of tens of millions of dollars.

Although there were lots of legal theories thrown around the hallowed halls of the federal courthouse in Gulfport, the claims boiled down to “O-rings.” O-rings, which are round elastic loops serving as a seal between structures, may seem inconsequential, but a malfunction of an O-ring can lead to devastating consequences, like the Space Shuttle Challenger disaster.

The first thing my trial partner Mark Dreher and I did was to hire one of the experts who investigated the malfunctioning O-ring of the Challenger. Dr. O-Rings (not his real name) worked in White Sands, New Mexico and had an impressive array of clients, like NASA for instance. He took our case on one condition: we would provide an opportunity for his engineering mentee who had never testified in Court before.

Mr. Young Engineer (not his real name) ran all the tests of our solvent and the Plaintiff’s machine. This machine was designed to clean out automotive air conditioning systems using a flushing solvent. While our testing did show that Super Flush chewed up and spit out O-rings like the one in the Plaintiff’s machine, the Plaintiff had failed to perform any compatibility testing before going to market. Our summary judgment motion – distilled to the withering legal maxim “Where’s the beef?” – was ultimately denied. We were headed to trial.

And then the antics began.

[Please click here to read the entire article](#)

Anita Modak-Truran is a Member, and is on the Pharmaceutical, Medical Device & Healthcare Group and Diversity and Inclusivity Committee at Butler

Snow LLP in Nashville, TN. Contact her at: Anita.Modak-Truran@butlersnow.com.

#3 New Podcast Episode Released



Mills Gallivan



Dan Steen



Please Click the "Play" Button to hear the Podcast

In this week's FedSpeaks podcast episode, FDCC Past President Mills Gallivan chats with [Dan Steen](#), the Executive Director at [Lawyers for Civil Justice](#).

Learn about:

- LCJ's "secret sauce",
- the various civil justice initiatives that Dan and his colleagues are advocating -- including clarifying the gatekeeping functions of judges within Fed.R.Civ.P. 702 on the admissibility of expert witness testimony;
- the work on advocating the new MDL Rule 16.1;
- its amicus program;
- amendment of privilege log rules;

- and also a little about his personal side -- like riding his Peloton through the French Alps, the two grandchildren he and his wife Ann enjoy being with and of the plans LCJ has going forward.

The FDCC and its members benefit greatly from the close working and personal partnership we share with LCJ, Dan and its General Counsel FDCC member [Alex Dahl](#), in achieving a more equitable civil justice system for everyone. Click on the link to see [LCJ's 2022 Annual Report](#).

Stream the Podcast directly from your phone or mobile device; or you can also go to the FedNOW App (click on the "... " in the bottom right hand corner of the App's home page); or grab it on the FDCC website by clicking on the "Podcast's" tab at the top. You can also find the FDCC Podcast's on Apple iTunes, Spotify, Stitcher or wherever you get your Podcasts. Don't miss out on what 5,652 people have already discovered, by learning more about your Federation and the awesome people that comprise our membership!



#4 The Rise of Lien-Doctors and Medical Financing Companies

By: Cara Scheibling & John Schneider



AVALON HEALTH ECONOMICS



“Medical funding companies” are increasingly featured in personal injury cases.^[1] Technically, the lien arrangements are legal and do not violate ethical rules.^[2] The proponents of medical litigation funding and lien-based medical treatment argue that it allows treatment for individuals injured in an accident who may not otherwise be able to afford medical treatment. But this honorable façade results in exaggeratedly inflated

medical bills, medically questionable procedures, and a third party now involved in the litigation that wants to see a return on investment. These factors increasingly result in “nuclear” verdicts.

Medical funding generally consists of two different approaches. The first approach is when the plaintiff is given a loan by a medical funding company to pay for their medical treatment. In these cases, the treating physicians then bills at special “litigation rates,” which are typically significantly higher than reasonable value (“RV”) or fair market value (“FMV”). This greatly inflates total damage amounts to levels to amounts that are far in excess of RV or FMV. However, in this approach, the medical funding company does *not* “purchase” the plaintiff’s bills at this litigation rate; instead, they negotiate a discounted rate (which coincidentally is typically the RV or FMV of those charges), and once the case is resolved, the medical funding company steps in to collect the original, litigation-funded rates set by the provider.

^[1] E. Miller, "Secret Funding for Plaintiff Attorneys Is On Rise, Experts Say," *Transport Topics* July 21 (2021).

^[2] See generally C. Chambers and L. LaFoe, "Legality and Ethics of Lien Uses in Medicine," *Mo Med* 117, no. 4 (2020).

[Please click here to read the entire article](#)

[John Schneider, Ph.D.](#) is President & CEO - and [Cara Scheibling](#) is Vice President & Principal - at [Avalon Health Economics](#), which has been a valued Platinum Sponsor of the FDCC for several years.

#5 FedMEETS - in Oregon &

San Francisco!



Vicki Smith



Liz Rhode

FDCC Defense Counsel members [Vicki Smith](#) and [Liz Rhode](#) are excited to invite all Oregon FDCC Members to get together for a social event on **May 11, 2023 at 4:00 pm.**

The fellowship gathering will take place at the offices of [Gillaspy Rhode Faddis & Benn](#) at 4380 S Macadam Ave. Ste. 590, in Portland.

Please email Liz or Vicki to RSVP. Looking forward to seeing you there!

We would also like to thank FDCC Defense Counsel Member [Carla Hartley](#) of [Dillingham Murphy](#) for organizing and bringing together some of our San Francisco members on Tuesday evening this week.



Left to right that's: Robert Romero and Maria Quintero, Hinshaw & Culbertson; Andy Downs, Bullivant Houser; John Worden, Venable; Carla Hartley, Dillingham & Murphy. Lori Sebransky with Allen Glaessner and Ellen Donovan with our valued Platinum Sponsor [Exponent](#) also joined us after the pictures were taken.

#5.1 Welcome to Our New Members!



Please welcome our newly vetted and approved members!



[Alexsa A. Marino](#) is a Litigation Counsel at [FM Global](#) in Johnston, RI. In her capacity as legal counsel, Alexsa oversees all aspects of litigation management, including investigation of potential subrogation actions and involvement in various insurance coverage matters, and advises on matters involving internal employment issues, including compliance and regulatory matters, risk management, policy revisions, restrictive covenant agreements, severance agreements, employee training materials, internal workplace investigations, the hiring, disciplining, and discharging of employees, and all aspects of litigation. Alexsa also works on alternative dispute resolution, having handled numerous arbitrations and mediations, which she continues to participate in on behalf of FM Global.

Prior to Alexsa's current practice, she was a Judicial Law Clerk in the Rhode Island Supreme Court Law Clerk Department, after which she practiced at Locke Lord LLP and then Littler Mendelson P.C.



[Jamie Combee Novaes](#) is a Partner at [Butler Weihmuller Katz Craig LLP](#) in Tampa, FL who practices in First-Party and Third-Party Coverage as well as Extra-Contractual matters. Jamie serves on the Board of Directors of the [Florida Defense Lawyers Association](#) and formerly served as the Chair of the Women in Law Committee.

Jamie obtained her Doctor of Jurisprudence, with honors, from Stetson University College of Law, where she also co-founded and served as editor of the Stetson Journal of Advocacy and the Law.

Welcome Aboard!

#5.2 What's on the Docket? FDCC's Upcoming Events



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

- **April 25th from 5:30PM - 7:30PM FedMEETS** at [One Market Restaurant](#) located in One Market Plaza, One Market Square in **San Francisco**. The event is being organized by FDCC Defense

Counsel **Carla Hartley at Dillingham Murphy**. [Please RSVP to Karen Nguyen](#) no later than next Wednesday, April 19th.

- **April 28 - 30, 2023: FedTechU** at the Headquarters of Veritext in Philadelphia, PA. [Click here to register](#).
- **May 11, 2023 at 4:00PM: FedMEETS/Oregon!** Please join us for some fellowship and drinks at the offices of Gillaspay Rhode Faddis & Benn at 4380 S Macadam Ave. Ste. 590, Portland. **RSVP to [Vicki Smith](#) or [Liz Rhode](#)**.
- **May 17, 2023 at 2:00PM ET / 11:00AM PT: Roundtable for In-House Insurance Members**. [Click Here to Register](#).
- **June 14, 2023 at 1:00PM ET - FDCC Law Practice Management Town Hall Meeting: "Strategic Planning: process, purpose & goals."** Join Moderator Jody Briandi and her guests: John Trimble; Steve Embry & Frank Ramos. [Click here to register](#).
- **July 23 - 28, 2023: FDCC's Annual Meeting at The Broadmoor Resort & Hotel** in Colorado Springs, CO. Convention Chair: [Casey Stansbury](#). Program Chair: [Marisa Trasatti](#). Registration coming soon.
- **October 22 - 24, 2023: FDCC's Corporate Counsel Symposium** at the Philadelphia Downtown Marriott Hotel in Philadelphia, PA. **"The Leader in WE"**. Co-Chairs: [Alison Christian](#) and [Bill Vita](#).
- **November 8 - 10, 2023: FDCC's Insurance Industry Institute (I-3)** at the Sheraton Times Square Hotel. **"Insights, Innovation & Inspiration: New Approaches for Insurance Leaders."** Co-Chairs: [Micalann Pepe](#) and [Alycen Moss](#).
- **February 25 - 29, 2024: FDCC's Winter Meeting at the Vinoy Renaissance Hotel** in St. Petersburg, FL. Convention Chair [Sean Griffin](#); Program Chair: [Frank Ramos](#)

.....
**...and finally...
Have a Nice Day**

Mark Budzinski !



Over the past 20 years, Mark has litigated hundreds of cases throughout Wisconsin in both state and federal courts, including more than 50 cases tried to jury verdict. He has represented clients of every size, from individuals involved in personal injury cases and small businesses, to Fortune 500 Companies and Top 100 Law Firms. Mark has been a valued defense counsel member of the FDCC since 2014.

Mark concentrates his practice in the areas of General Liability, Nursing Home and Long Term and Health Care Litigation.

At the age of 17, Mark enlisted in the United States Marine Corps infantry as a rifleman, following a long family tradition of military service. He served in the Marine Corps Reserve for 6 years while obtaining his undergraduate and law degrees. During that time, he completed a number of combat related training schools around the country before completing his military obligation in 2001.

By 2004, Mark had established himself as a successful trial lawyer in the firm's Madison office. In the meantime, the war in Iraq broke out. Mark took a leave of absence from his law practice to re-enlist in the United States Marine Corps. He was assigned to Kilo Company, 3rd Battalion, 25th Marine Regiment, and deployed to Al Anbar Province, Iraq in February of 2005 where he led his Marines into battle at the very height of the insurgency. He returned home in October of 2005, and shortly thereafter opened the **Corneille Law Group**'s Green Bay office.

Mark has been designated a Board Certified Trial Attorney by the National Board of Trial Advocacy, has been selected by his peers for membership not only in the FDCC, but also the American Board of Trial Advocacy (ABOTA).

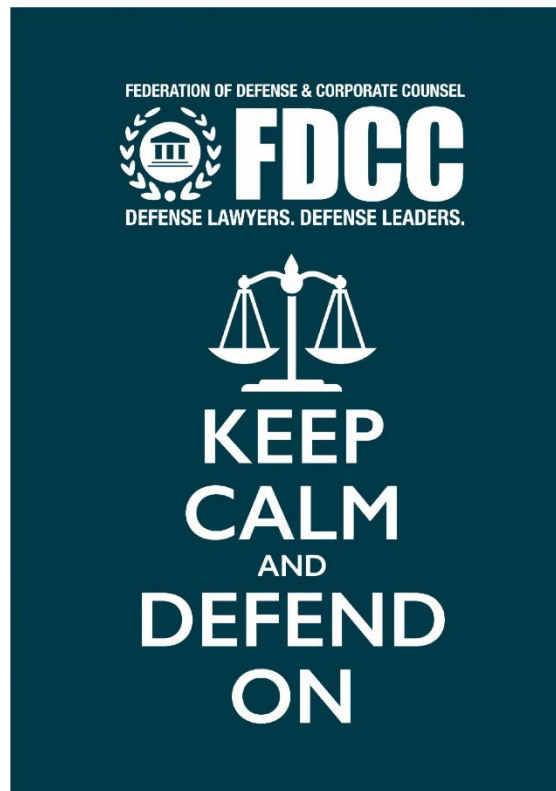
Tuesday was Mark's birthday! Would you please join us in sending him a slightly belated congratulatory email, and thanking him for his service to our Country? His email is:

budzinskim@corneillelaw.com

Congratulations Mark, and welcome home.
We wish you all the very best 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!