



August 12, 2022 -- Issue 132

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**BUILDING NETWORKS BUILDING FRIENDSHIPS**

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***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.

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## **#1 A Message from FDCC President Howard Merten**

## **Building Networks. Building Friendships.**

What an honor and thrill to stand before the assembled FDCC members in Seattle and accept the gavel as the new President of the Federation. The event was made all the more special because I was looking out at so many friends, so many people I have come to enjoy and respect. Those friendships and connections are what led us to choose “BUILDING NETWORKS. BUILDING FRIENDSHIPS” as the FDCC’s mission this year. Because those friendships are what make the FDCC so unique and valuable.



As we look forward to a new year, we are focused on rebuilding Federation meetings to pre-COVID heights. And the energy at the Seattle meeting proves we are on our way. Much like the vibe of the Seattle meeting itself, my reflections as I stood at the podium were of homecoming and friendship. The buzz and excitement at the cocktail receptions and parties was palpable as everyone greeted old and new friends. And who can forget about the Disco Party and pop-up karaoke nights? The latter proved how talented and, um, fearless our members are and how much fun we have together. The former transported me back to 1978 (assuming I ever went to a disco in 1978, which I did not.)

The energy I witnessed in Seattle reaffirmed what I already knew –friendships and connections make the FDCC the best legal group bar none. Those friendships are made at our meetings so what makes more sense than committing ourselves to having the best meetings possible.

And don't forget, we don't just do the big Annual and Winter Meetings. If you are a new member who wants to try a more intimate and smaller meeting, or if you are a longer-standing member who hasn't been able to carve out the time to come to our longer meetings, consider attending either the Corporate Counsel Symposium (CCS) or the Insurance Industry Institute (I-3). Registration for both events will be available next week. If you are a corporate or industry member, these meetings are geared directly to you, with top industry and in house leaders speaking and tremendous peer networking opportunities. If you are a defense counsel member, there is no better

opportunity to meet corporate and industry members and leaders. Did you know that both I-3 and CCS had about twice as many in-house and industry attendees as defense counsel members over the last few years? And did you know that any defense counsel member can attend these events, even if they do not bring a corporate or industry guest?

So, dive in. Make plans to attend a meeting or two. Get involved and begin building networks and building friendships.

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[Howard Merten](#) is President of the FDCC and a Partner with [Partridge Snow & Hahn](#) in Providence, RI.

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## #2 Annual Meeting Award Winners: Part I

Each year, the Federation bestows awards on members who have distinguished themselves within the organization by going above and beyond in their commitment and dedication to advancing the core values and objectives of the FDCC. In one of his last official acts as President, [Bob Christie](#) presided over the awards ceremony during the 2022 Annual Meeting in Seattle.

Over the next several weeks, we will highlight this year's award winners and share their many accomplishments with you.



[Lynne Ingram](#) (center) of Campbell Conroy & O'Neil in Berwyn, PA received the 2022 **Joseph R. Olshan Award**, which is presented annually to the chair of the Committee or Project and whose work has made



[Alycen Moss](#) (left) of Cozen O'Connor in Atlanta, GA was presented with the 2022 **Andrew C. Hecker Award**, which is given annually to the author of the most outstanding article in FDCC Insights

the most outstanding contribution to the advancement of the FDCC's aspirational goals. Lynne's tireless efforts through the FedServes Committee promotes volunteer and philanthropic efforts in those cities in which the FDCC has its meetings, and allows us to leave a little something behind to help residents and non-profit organizations.

Lynne was joined by her Co-Chair of the FedServes Committee, [Tiffany Alexander](#) (left) of Tanenbaum Keale LLP.

during the course of the past year and is limited to FDCC Members.

Alycen's timely article in the May 2022 issue of Insights pertain to *Coverage Issues Regarding Riots, Civil Commotion & Curfews*, and was downloaded 964 times (so far)!

Alycen is also Chair of the upcoming Property Insurance Boot Camp being held November 9, 2022 in New York City in conjunction with the Insurance Industry Institute meeting which follows immediately thereafter.

### #3 Answering Your Questions: A New Weekly Segment

We want to hear from you! We are beta testing a new weekly segment for the Friday 5's called "**Answering Your Questions**," where we solicit your questions, pose them to our members in the Friday Five, and the following week we share the answers.

For example, you may want to ask our members:

- What is your best marketing tip?
- How do you get your associates to turn in their timesheets timely and accurately?
- How do you get your lawyers to want to return to the office?

Please e-mail your questions to the Federation at: [bernie@thefederation.org](mailto:bernie@thefederation.org).

To get the ball rolling, the Federation is asking all of you the following question:



- **How can the Federation assist the members to fellowship between meetings?**

We'll post the results next week!

## #4 The Assault on Indemnity

### By: Jonathon Held



Historically, insurers have devised two basic valuation provisions to protect policyholders from the risk of loss. The historical basic grant of coverage, ACV, was always intended to be an indemnity-based valuation method. The replacement cost valuation provision was devised to allow the insured to replace old with new, leaving an insured in an improved condition.

The states have never devised a uniform valuation method to be applied for all losses regardless of jurisdiction, and in their

attempts to clarify the principle of indemnity, insurers have sought to clarify ACV in their policies. In so doing, the insurers have arguably provided a basis for policyholders to challenge the principle of indemnity inherent in the intended meaning of ACV.

This has led to broad attacks on the basic principle of indemnity. Class action lawsuits are the current vehicle being used to increase ACV measures from their original historical intent. These lawsuits have led to conflicting decisions and even more uncertainty. This, in turn, raises the question of whether there is a better approach to achieving indemnity. One approach would be for insurers to eliminate the ACV language in policies and replace it with a carefully worded

“indemnity” provision based on economic loss in value, which would leave no doubt as to the intent to make a policyholder whole, but not more than whole, as the basic coverage grant.

Alternatively, perhaps insurers can more descriptively define ACV, leaving no question as to what is and is not to be included in its determination. This would include a definition that removes all doubt that the basic obligation of an insurer is, as was appropriately stated by the *McAnarney* court almost 100

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years ago, to effectuate complete indemnity. This would restore this basic property insurance principle to its original intent.

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



For additional information of the suite of expert services offered by our valued business partners at J.S. Held, please contact [Betsy Rogers](#) or [Teddy Brown](#). We thank them for their valued friendship and continued sponsorship of the FDCC and our meetings.

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## #5.1 Welcome to Our New Member!



**This week, a new Defense Counsel Member was approved by the Admissions Committee. Please join us in welcoming them.**

- [Michele Y. Smith](#) is a Partner with [MehaffyWeber](#) in Houston, TX, where her practice is focused on complex litigation matters. Her practice has spanned a wide variety of areas including products and premises liability, pharmaceutical, and construction defect litigation. She has also represented a variety of businesses in sophisticated mass tort causes of action involving numerous chemical substances and exposures and has served on the coordinating team for the statewide defense of several clients. She currently serves on the Board of Directors of the International Association of Defense Council, where she previously served as the past Chair of the CLE and In-House Law Firm Management Committees. Michele is Board Certified in Personal Injury Trial

Law by the Texas Board of Legal Specialization, and is well known in the legal community for her leadership skills across multiple legal organizations. Outside of her work at MehaffyWeber, Ms. Smith dedicates time and energy to her community through volunteer work and pro bono legal services. Michele has served on the boards of several philanthropic organizations and volunteered at numerous events, including the Spindletop Spin bike ride to raise funds for legal-aid programs, the Julie Rogers Gift of Life Program, the Symphony of Southeast Texas, and the Shorkey Center, which offers physical rehabilitation services for children.

## #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:

- **August 16-17, 2022: FDCC Virtual Deposition Boot Camp** - 10:00am to 6:00PM ET. Register by emailing: [danielle@thefederation.org](mailto:danielle@thefederation.org).
- **August 31st - at 2:00PM ET / 11:00AM PT: FDCC Law Firm Leadership Town Hall.** [Click Here to Register!](#)



- **September 30 - October 2, 2022: FedTechU/West** at Gordon & Rees in San Francisco, CA. [Click Here to Register!](#) (class is limited to 20 attendees).
- **October 16-18, 2022: FDCC's Corporate Counsel Symposium** at the Downtown Marriott in Philadelphia, PA. Registration coming soon.
- **November 9, 2022: FDCC's Property Insurance Boot Camp** at the Sheraton Times Square Hotel in New York City, NY. Registration coming soon.
- **November 9-11, 2022: FDCC's Insurance Industry Institute (I-3)** at the Sheraton Times Square Hotel in New York City, NY. Registration coming soon.
- **November 30 - December 2, 2022: LCJ Meeting** at the Westin New York at Times Square Hotel.
- **February 19 - 23, 2023: FDCC's Winter Meeting** at the Omni Hotel in Nashville, TN. [Click Here to Register!](#)
- **July 23 - 28, 2023: FDCC's Annual Meeting at The Broadmoor Resort & Hotel** in Colorado Springs, CO.
- **February 25 - 29, 2024: FDCC's Winter Meeting at the Vinoy Renaissance Hotel** in St. Petersburg, FL

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**...and finally...  
Have a Nice Day  
Joseph M. Moore !**



**Joe Moore** is a Director in the Litigation Practice Group of **McCandish Holton** in Richmond, VA. His diverse practice is focused in the areas of premises liability, trucking litigation, personal injury, and commercial disputes. Joe also has extensive experience handling mediations and other forms of alternative dispute resolution.

He regularly practices in all state courts in Virginia as well as the Eastern and Western Districts of Virginia. He has also argued appellate matters before the Supreme Court of Virginia and the United States Court of Appeals for the Fourth Circuit.

Joe is an active member of ALFA International and serves on the Steering Committees for the Transportation Group and Retail and Hospitality Group. He has spoken at several ALFA conferences and his articles regarding fraudulent joinder and removal have been published in ALFA's Transportation Update. He has also been a presenter for the National Business Institute and is actively involved in the Richmond Bar Association.

In his spare time, Joe enjoys playing golf, politics and spending time with his wife, Jennifer, his son Jacob, and his daughter Macie.

Oh...and today is Joe's birthday! Please join with us in sending Joe an email to:

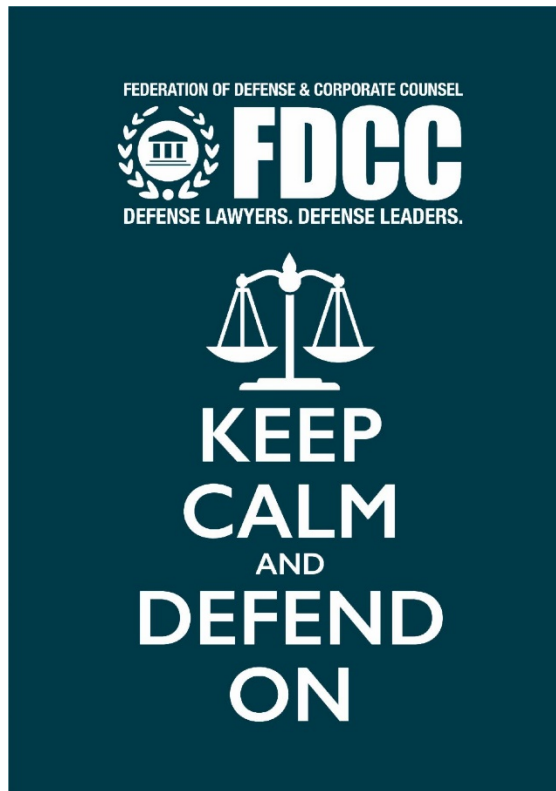
[joe.moore@lawmh.com](mailto:joe.moore@lawmh.com)

to wish him a very Happy Birthday along with continued good health, success and happiness in the years to come. Happy Birthday, Joe!

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### **Why FDCC?**

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



**Be Exceptional Today!**