

FEDERATION OF DEFENSE & CORPORATE COUNSEL



FDCC

DEFENSE LAWYERS. DEFENSE LEADERS.



August 18, 2023 -- Issue 185

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 Corporate Counsel Symposium:
Registration Now Open!**



How do we become the stronger leaders our organizations need? We live in challenging times. After coming off a worldwide pandemic, instead of a period of rest, we find upheaval caused by the war in Ukraine, manufacturers migrating away from China, amidst uncertainty over Taiwan, and robust debate over the increasing power of artificial intelligence.

This year's Symposium, being held **October 22-24, 2023 at the Marriott Hotel in Downtown Philadelphia, PA**, will provide timely information and meaningful answers on building leadership to navigate the mounting challenges and hurdles faced by legal counsel in every business.

Additionally, as a bonus for our outside counsel, law firm managers who attend the Symposium will be able to join a **Leadership Workshop on Law Practice Management**. This Workshop will be offered as a breakout session for firm managers who want to attend.

In order to foster interactive discussions **we are bringing you this Corporate Counsel Symposium without PowerPoint presentations**. The Program has been specifically designed to include problem-solving ideas, from all-star panels, about issues that legal departments are confronted with every day. In addition to the dynamite CLE, the Symposium will feature ample opportunities for fellowship and networking, including dine-a-round dinners in some of the best restaurants in Philly.

All FDCC defense and corporate counsel members are welcome to attend and encouraged to bring a client or colleague, although bringing a client is not required.

Let's get you and your clients and counsel registered!

[Click here for the Brochure](#)

[Click here to register](#)

[Click here to register for the Hotel](#)

#2 FDCC Members in Hawaii... After the Fire on Maui



We've all seen the devastation and indescribable loss of life on Maui following the wildfire spawned by hurricane force winds this past week. We reached out to all our members and friends in Hawaii to ascertain their status and that of their families.

All members reported they are safe - but as you might expect, everyone knows someone that has been impacted. We thought you might like to read some of the replies we received:

David Louie: *Thanks so much for reaching out. We are fine here in Honolulu. Maui is a very very sad story and it happened in a heartbeat. My message to everyone is cherish and spend time, lots of time, with friends and family. Life is too short, so we all need to enjoy when we can.*

Trisha Mishimoto: *Thank you for reaching out during this devastating and uncertain time. I'm safe and so is my family, but we know many who have lost everything. It will take decades for Maui to recover and rebuild. But the history that was Lahaina town is gone forever. Truly heartbreaking. I can't believe everything that has happened and is happening, both in Lahaina and Upcountry in Kula. Hold your loved ones tight, and stay safe.*

Wesley Ching: *Thanks for your concern regarding the catastrophic Maui fires. Our law firm members and families are all safe on Oahu. But we all have relatives and colleagues who reside on Maui, and we are hoping they have survived and are okay.*

Our hearts go out to our members on the Islands, their families, friends and colleagues. So much was lost, but the spirit of Lahaina Town will always live on.

Photo Credit: (Mengshin Lin for The Washington Post / Getty Images)

#3 Going Green: Cannabis Facility Construction Claims are Budding

By: Alonzo Washington



In 2012, California and Washington legalized the recreational use of cannabis. Since then, twenty-two states and the District of Columbia have followed suit and an additional fifteen states have legalized medical marijuana. With the growth of any new industry, comes a cloud of litigation.

Less than a decade ago, industrial scale indoor cannabis grow facilities were far and few between. It is now estimated that 80% of cannabis is grown indoors with lighting and environmental controls such as heating, cooling, and dehumidification. Dehumidification—the ability of an HVAC system to remove moisture from the air of an indoor grow facility—can be a significant factor in the success or failure of the cannabis crop. The inability to control moisture can result in the growth of mold or mildew leading to the loss of crops. Therefore, an HVAC system's design can be fertile ground for significant claims and litigation.

That's the bad news. The good news is that "legal" industrial indoor cannabis grow facilities are a recent phenomenon. Although the newness of this blooming industry creates challenges for HVAC design professionals, it also creates defense opportunities due to the lack of established HVAC engineering and industry standards for this specific crop. Also, there is no consensus among growers as it relates to acceptable crop yields, grow techniques, nutrient plans, fertigation plans and irrigation plans. The lack of consensus among growers stems from each grower having their own unique recipe or "special sauce" for growing cannabis. The lack of HVAC engineering and industry standards, coupled with a lack of consensus among growers regarding

grow techniques, creates opportunities for the defense to send a Plaintiff's case up in smoke.

[Alonzo Washington](#) is an FDCC defense Counsel Member and a partner with [Flaherty Sensabaugh Bonasso, PLLC](#) in Morgantown, WV.

#4 We Nearly Broke the Internet!



You may have noticed your internet speed having slowed down this past Wednesday, between 1:00PM and 2:30PM ET. It was a historic day for the FDCC as two free, virtual presentations took place concurrently on separate Zoom platforms, providing incredible value to over 700 of our members and professionals within the offices and conference rooms their firms and companies.

If you missed either of the sessions, or would like to pass the recordings along to your colleagues, you can click on the respective red links below.

- [Dan Kohane](#) and [John Trimble](#) - had over 700 people attend their ["Insurance Coverage 101: A CGL Primer"](#); and
- [Jody Briandi](#) moderated an interactive discussion along with her panel of [Frank Ramos](#) and [Steve Embry](#) and 48 attendees on ["Law Firm Technology"](#) as part of the on-going virtual Law Practice Management Town Hall sessions.

Stay tuned as the FDCC brings more of these educational and informational sessions directly to you.

#5 FedSpeaks Podcasts Released Meet Your New Colleagues



Remember the feeling of pride and excitement after being advised that following the extensive vetting process, your nomination into the FDCC had been approved? Joining this elite and inclusively exclusive professional organization is an exceptional achievement, providing access to

a network of subject matter leaders, trial attorneys, coverage counsel, industry professionals and corporate counsel.

We recently added a number of new members - who each have their own unique story to tell. [Alan Rutkin](#) & [Sean Griffin](#) invited some of the more recent new members to sit and chat about their legal practices, personal hobbies, families and travels. Enjoy meeting them in our podcast **"Welcome to the FDCC"** by clicking on the links below:

- [Marcus Dean](#) - Swift Currie
- [Eric Passeggio](#) - Sulloway & Hollis, PLLC
- [Claire Maisano](#) - Evert Waethersby Houff
- [Keith Gibson](#) - Littleton Park
- [Ashley Brathwaite](#) - Ellie Winters
- [Matt Moeller](#) - The Moeller Firm, LLC
- [Chris Teske](#) - Pipes Miles Beckman, LLC

You can also listen to the over 139 free FedSpeaks podcasts on Apple iTunes, Stitcher, Spotify, on the FDCC365 App, or wherever you listen to your podcasts. Over 6,000 downloads of FedSpeaks podcasts have already happened. Join in today!

#5.1 FRCP Update



We are working with our colleagues at [Lawyers for Civil Justice](#) in monitoring and providing our members with information on developments pertaining to the Federal Rules of Civil Procedure. The public comment process opens today on two important proposals for FRCP

amendments: a new Rule 16.1 for multidistrict litigation, and changes to Rules 16 and 26(f) concerning privilege logs. We strongly encourage you to engage in this process.

Why is this important?

The Advisory Committee on Civil Rules is asking for input about its proposed MDL rule and privilege log rule amendments. This is an important step in the rulemaking process because it provides you a meaningful opportunity to weigh in on these proposals—which will affect litigation for years to come—by sharing your experience, insight, and suggestions for improving the drafts before they become rules. The FDCC has been working with LCJ and its members for several years to advance these ideas, and now it's time for everyone who supports these reforms to urge their improvement and adoption. As LCJ rightly notes, there is an active battle waging to defeat these needed reforms. The proposed amendments are available here:

https://www.uscourts.gov/sites/default/files/2023_preliminary_draft_final_0.pdf

How can you engage?

There are two ways for you to engage: (1) write a comment letter and (2) participate in one of the three scheduled public hearings. Written comment letters may be submitted anytime between now and February 16, 2024 (the sooner, the better) at this link: <https://www.regulations.gov/docket/USC-RULES-CV-2023-0003/document>. The public hearings will take place on the following dates:

- **October 16, 2023 (in Washington, DC)**
- **January 16, 2024 (video conference)**
- **February 6, 2024 (video conference)**

Be sure to reserve your spot to testify by contacting the Secretary of the Committee on Rules of Practice and Procedure by email at RulesCommittee_Secretary@ao.uscourts.gov, at least 30 days before the hearing—they are almost certain to be oversubscribed. And please notify LCJ about which hearing you plan to participate in so we can invite you to our organized prep sessions.

Our thanks to Alex Dahl, Dan Steen and their colleagues at LCJ for their continued leadership on these initiatives.

#5.1 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:

- **September 12, 2023: FDCC Corporate Roundtable - 1:00PM ET**, moderated by April Berman, Senior Vice President & Deputy General Counsel Asurion. [Please click here to register.](#)
- **October 22 - 24, 2023: FDCC's Corporate Counsel Symposium & Law Firm leadership Workshop** 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](#). [Click here to Register.](#)

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...and finally...
Have a Nice Day
Michael S. Katzen!



Michael is Senior Corporate Counsel at **Quest Diagnostics** in Secaucus, NJ. He has been a valued Corporate Counsel Member of the FDCC since 2022.

Michael provides day-to-day legal support on employment, labor, workers' compensation and immigration matters.

He also provides problem solving with partners across business functions, including Human Resources, Risk Management, Compliance,

Employee Health & Safety, Sales, and Business Development/M&A.

And on Sunday, he will be celebrating his birthday! Would you kindly join us in sending Michael an email to:

michael.s.katzen@questdiagnostics.com

to wish him a very Happy Birthday. All the very best, Michael. We wish you, Laura, and the family 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



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DEFENSE LAWYERS. DEFENSE LEADERS.



**KEEP
CALM
AND
DEFEND
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Be Exceptional Today!