



FDCC
DEFENSE LAWYERS. DEFENSE LEADERS.



August 22, 2025 -- Issue 291

Good Morning!

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#1 Room Block for Corporate Counsel Symposium Closing August 29

Register for the 2025 Corporate Counsel Symposium!

Only 23 days remain before we kick-off this year's FDCC's Annual Corporate Counsel Symposium at the InterContinental Magnificent Mile Hotel in Chicago, IL on September 14-16, 2025! Which also means our room block will be closing next Friday at the reduced negotiated rate of \$319/night.



The annual interactive and networking conference is **open to Defense Counsel and Corporate Counsel and their clients/colleagues**. Join us as we bring together the key industry experts and today's thought leaders to provide you with the opportunity of exchanging new ideas and practical solutions to the various issues and challenges facing us all.

If you have not already done so, please take the opportunity of registering today! Our thanks to Co-Chairs: [Nicole Benjamin](#), [Chelsey Golightly](#) and [Tim Moore](#) for organizing this invaluable conference.

Click on the links for:

- [The Brochure](#)
- [Registration for the CCS Symposium](#)
- [To make your Hotel Reservation](#)
- [Reserve your seat at the DIne Arounds](#)

See you in Chicago!

#2 Do You Want A Therapist or a Coach? Mediator Neutrality v. Evaluative Approaches in Mediation By: Eric Gillett



There are times when the last thing we want to hear is an unsolicited opinion. It is no surprise that one of the things we are taught at a young age is to keep our opinions to ourselves. I know that this operates more in the breach than the observance, so it strikes me as appropriate to look at how this impacts our approach to mediation.

I recall a mediation years ago where I very much wanted the mediator's opinion about my case. For one reason, I was working in a legal area where I had very little experience, certainly much less than the attorney on the other side. It was a maritime case and the plaintiff's lawyer was a maritime attorney. So, when he would wax eloquent on the vagaries of some ancient mariner case, I was wondered whether I had all the tools I needed to protect my client. Therefore, when it came to the mediation, and our mediator also had a deep background in maritime cases, I leaned on him as a soundboard for my defenses. It turns out I had it mostly right and my defenses held water. That gave me great comfort when the case didn't settle, and we ended up in trial. And even better when the jury returned a defense verdict.

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

Eric Gillett is an FDCC Defense Counsel member and a founding member of **Preg O'Donnell & Gillett** in Seattle, WA. Over the past 10 years, Eric has made himself available to assist parties to resolve their commercial disputes through mediation. He maintains a Seattle based commercial mediation practice alongside his active litigation practice.

#3 Yes...We're Going to Lisbon:

The FDCC 2026 Annual Meeting



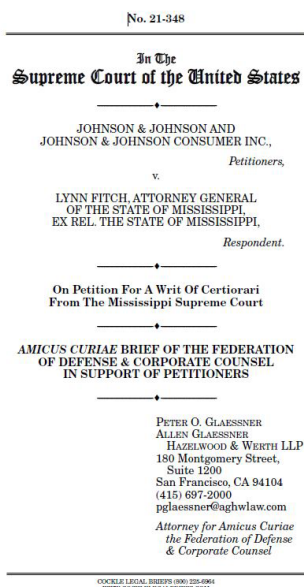
We are excited to open registration in September for the FDCC's 2026 Annual Meeting in Lisbon, Portugal - July 26 - 31, 2026. More information on the program and excursions organized by Convention Chair **Lee Hall** and Program Chair **Alycen Moss**, will also be forthcoming soon - but we want to give everyone the chance to begin making plans now (and to make sure that your Passports are current!).

Click on the icon above to watch the promotional video of all that you and your family will have the opportunity to take advantage of in Lisbon, and then watch your

email box next month for the link to register! From the rich cultural heritage and breathtaking architecture to the world-renowned cuisine and vibrant coastal charm, Whether you're strolling the historic streets of Alfama, sipping port wine in a scenic café, or taking in the sunset from a seaside promenade, every moment will contribute to a truly unforgettable experience.

Our host venue, the [Corinthia Hotel](#), is a five-star luxury property known for its exceptional service, elegant accommodations, and ideal location for exploring all that the city has to offer. With specially curated excursions, engaging educational sessions, and fun family-friendly activities, the 2026 Annual Meeting will offer something for everyone. Make "**A Mosaic of Memories**" with your FDCC friends and colleagues as we gather together for what promises to be one of the most memorable and inspiring Annual Meetings yet.

#4 Shape Legal Policy: FDCC Amicus Committee Now Accepting Additional Members



Over the past twelve months, the Federation has seen a growing number of requests to contribute *amicus curiae* briefs in high-profile appellate cases—including matters before the Supreme Court of the United States, as well as influential state and federal appellate courts across the nation.

This rising demand is a direct reflection of the FDCC's exceptional reputation within the legal community. Our voice is respected, and our contributions—driven by the extraordinary talent and insights of our members—are actively sought by parties across the legal spectrum.

Whether clarifying complex legal principles or supporting critical industry positions, our amicus briefs are making a meaningful impact in shaping case law and public policy.

As this vital work continues to expand, we are inviting interested FDCC members to become active participants in the Amicus & Public Policy Committee. This is an outstanding opportunity to:

- Collaborate on high-stakes legal issues with national relevance.
- Contribute to the Federation's role as a thought leader and influencer in the appellate courts.
- Gain experience in drafting and reviewing amicus briefs alongside peers who are among the top litigators in their fields.
- Play a pivotal role in ensuring the Federation's voice is heard on issues of significant legal and policy importance.

We are looking for members with an interest in legal writing, appellate advocacy, or public policy, as well as those who bring subject-matter expertise or connections to emerging legal trends.

If you are passionate about advancing the legal profession and shaping the future of jurisprudence, we encourage you to step forward and join us. Your skills and insights could help influence some of the most important legal questions facing our courts today. Please email FDCC President [Marc Harwell](#) and his paralegal [Jennifer Roden](#) to advise of your interest in joining this dynamic and important committee.

#5 Managing Wage Loss Claims in Personal Injury Cases: PART 1: Identifying Measurable Disruption & Baseline Wages

By: John E. Schneider, PhD & Cara M. Scheibling, MBA

Avalon Health Economics



John E. Schneider, PhD

CEO & Principal



Cara Scheibling

President & Principal

This will be a 3-part series on how to manage wage loss claims. Increasingly, alongside the rapid growth in the prevalence and magnitude of life care plans (“LCPs”), we are seeing larger and more prevalent wage loss claims. It would not be surprising if, in some personal injury cases, dubious wage loss claims were included simply to add credence to the assertions of the outsized LCP. In this 3-part series, we will discuss, from an economic damages perspective, 6 critical questions:

Part 1: (1) Was there a measurable disruption or impact on the ability of the person to work? If so, can the impact be measured as a percentage of disruption and duration of disruption? And (2) What is the true “earnings capacity” of the

individual, and what evidentiary data is available to confirm earnings capacity? This includes earnings capacity associated with changes in occupation.

In Part 2, we will focus on (3) What is the expected growth rate in earnings? In addition, (4) what is an appropriate “discount rate” for the value of future earnings?

Finally, Part 3 will focus on: (5) What is the work life expectancy (“WLE”) of the individual? A related question (6) is what is the expected work “productivity” of the individual? Individuals earning hourly wages may, due to pre-existing conditions, have lower work productivity compared to their peers without pre-existing conditions.

Part 1: Measurable Disruption & Earnings Capacity

Setting aside for a moment issues of liability and attribution, it is important to verify that a work disruption has indeed occurred, and the magnitude of the impact; that is, ranging from 0% for no discernable impact to 100% for inability to work.

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



Dr. John Schneider is the CEO and founder of **Avalon Health Economics**. He started Avalon Health Economics in 2013 by bringing together the consulting practices of several industry and academic colleagues. Dr. Schneider was on the faculty in the Department of Health Management and Policy and the Department of Economics at the University of Iowa. His PhD is in Health Services and Policy Analysis from the University

of California Berkeley, with a concentration in health economics.

Cara Scheibling is President & Principal at **Avalon Health Economics**. She has her MBA from University of Tennessee. In addition to her role in business management and development, Cara's focus is on cost accounting, cost analysis, and economic valuation. Cara has expertise in developing cost estimates for economic models of pharmaceuticals and medical devices, developing unit cost measures for model adaptations, and estimating reasonable costs of medical services in a variety of health care litigation applications.

Avalon Health Economics has been a Platinum Sponsor of the FDCC for many years.

5.1 Welcome to Our New Member!



Please join us in extending a warm welcome to our newly admitted member:



Eric Bowers is a Partner with **Gette Law, PLLC** in Dallas, TX, where his practice focuses on first-party property insurance coverage and insurance company litigation. His experience spans a broad range of property risks, including hail, wind, hurricane, lightning, fire, freeze, flood and theft, under commercial property insurance, builder's risk, time element / business interruption and extra expense coverages.

In addition to his litigation and pre-litigation practice, Eric has drafted multiple policy forms and endorsements that are being used in insurance products, including cosmetic damage endorsements, pathogen and communicable disease exclusions, and appraisal endorsements. Eric is also experienced at navigating the complexities of trans-border disputes, including currency exchange issues, evidentiary competence, language complications, and cultural awareness.

Eric and his wife Marisol reside in Wylie, TX.

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:.

- **September 14-16, 2025: Corporate Counsel Symposium** at the InterContinental Hotel in Chicago, IL. Co-Chairs: [Chelsey Golightly](#), [Nicole Benjamin](#), and [Tim Moore](#), Click on the links for the [Brochure](#) and to [Register](#).
- **November 5-7, 2025: Insurance Industry Institute** at the Westin Times Square Hotel in New York City. Co-Chairs: [Sarannah McMurtry](#) and [Jeff Van Volkenburg](#). Registration coming soon.
- **February 24-28, 2026: Winter Meeting** at the [J.W. Marriott Desert Ridge Resort](#) in Scottsdale, AZ: **"Together We Rise From the Valley"**. Convention Chair: [Frank Ramos](#); Program Chair: [Micalann Pepe](#).
- **July 26 - 31, 2026: Annual Meeting** at the [Corinthia Hotel in Lisbon, Portugal](#): **"A Mosaic of Memories in Lisbon"**. Convention Chair: [Lee Hall](#); Program Chair: [Alycen Moss](#).

- **February 28-March 4, 2027: Winter Meeting** at the [Fountainbleu Hotel, Miami Beach, FL.](#)
- **July 25-30, 2027: Annual Meeting** at the [Fairmont Banff Springs, Banff, Alberta, Canada.](#)

...and finally, Have a Nice Day...

Edward F. Hennessey, IV !



Ted Hennessey is a Partner with [Robinson Bradshaw & Hinson](#) in Charlotte, NC, where he focuses his practice on the efficient and creative resolution of complex public and close corporation merger and shareholder rights matters, along with health care, construction, real estate and other commercial disputes.

He represents clients in the real estate development, construction contracting, investment banking, hedge and other investment fund management, and transportation industries.

Ted has served as lead counsel in more than a dozen jury trials, as well as numerous matters tried to the bench or to arbitrators. He also regularly serves as lead counsel in cases before the North Carolina Business Court. In addition, Ted advises and represents clients in the negotiation of construction and other

commercial contracts and corporate governance documents. He heads teams conducting internal investigations and representing the targets of both state and federal investigations.

Ted is a frequent speaker at seminars and meetings on trial and litigation practice and other issues regarding commercial dispute resolution. He also presides as an arbitrator in matters before the American Arbitration Association and American Health Lawyers Association.

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

thennessey@rbh.com

Happy Birthday Ted and all very best wishes to you, Melissa and the family for continued good health, success and happiness in the years ahead.

Thank you for being a valued member of the FDCC since 2015!



Why FDCC?

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