

FEDERATION OF DEFENSE & CORPORATE COUNSEL



FDCC

DEFENSE LAWYERS. DEFENSE LEADERS.



June 10, 2022 -- Issue 123

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 conducting on behalf of all our members.

#1 Let's Get You Registered!



The FDCC [Annual Meeting brochure](#) is ready for your review, and checking off all the informative programs and memorable off-site activities you will want to take advantage of at the FDCC's Annual Meeting - **July 25-30, 2022** - at the Hyatt Regency Hotel in Seattle, WA. Need restaurant recommendations? We've got 'em. Want 22 additional ideas of things to enjoy while in Seattle? Yup...they're all in the brochure as well.

If you have already registered, please remember to go back to the [registration page](#) now and select all the events you in which would like to participate.

As our Convention Chair [Heidi Goebel](#) and Program Chair [Amy Miletich](#) have said, "Seattle is our Resort and the Pacific Northwest is our Playground". [Click on this link](#) to see all of the fabulous things you will have the chance to do while you're in Seattle!

If you have not yet had a chance to register, now's your chance to join with the current 148 FDCC members who have already done so! If you'd rather not register online - just use this [PDF form](#). And if you have any questions, please call us: 610-992-0002 so we can help with any logistics or inquiries.

We look forward to seeing you, your Spouse, guest, significant other and children in Seattle for a spectacular Annual Meeting because "Together We're Better!"

#2 Sixty Seconds in Seattle



Have you ever wanted to personally experience glassblowing? Join us at the [Seattle Glassblowing Studio](#) on **July 27, 2022 at 12:15PM** during the Annual Meeting for an exceptional, hands-on opportunity! Click on the image above to see how it all works. Their mission is to bring the art of glassblowing to the public.

You will have the chance to work one-on-one with an experienced artist to create your own bowl or ornament. From heating the molten glass in the oven

to blowing and rolling your own piece of art, you are in control! Your piece will take 48 hours to cool, and will be available for you to take or ship home!

To sign up for the event, [register for the Annual Meeting](#) and all the fun events just like this one, today!



#3 Rule 702 Amendments Adopted

DON'T SAY ~~DAUBERT~~

Our colleagues with Lawyers for Civil Justice have been championing an effort to amend Rule 702 of the Federal Rules of Evidence to restore to the trial courts the gatekeeper function for the admissibility of expert witness testimony many of them have

misapplied. The FDCC has joined the effort by previously offering its own Comments advocating the need for the Amendments.

On Tuesday, the Committee on Rules of Practice and Procedure voted unanimously to approve the LCJ-supported amendment to Rule 702 of the Federal Rules of Evidence. This action marks an important milestone in the efforts to reform procedures for vetting expert testimony.

The Rule 702 amendment addresses widespread misunderstandings about expert evidence admissibility by clarifying that: (1) the proponent of expert testimony must establish its admissibility to the court by a preponderance of the evidence before it can be presented to a jury, and (2) an expert shall not

assert a degree of confidence in an opinion that is not derived from sufficient facts and reliable methods. The amendment will go a long way toward ensuring that Rule 702, not outdated *Daubert* case law, is applied when courts consider the admissibility of expert evidence.

Assuming the rulemaking process proceeds as we expect, the amendment will take effect on December 1, 2023. In the meantime, the amendment will be considered by the Judicial Conference, the U.S. Supreme Court, and Congress.

This development is a crucial and successful step, and we will keep you advised of our collective efforts. We will also continue working with LCJ's Expert Evidence Committee and the efforts to advocate for adoption of this amendment as well as for conforming amendments to state evidence rules. In addition, the Committee will increase its efforts to educate the bench and bar about Rule 702's requirements. If you would like to join the effort, please [let us know](#). In the meantime, be sure to follow LCJ's social media and visit their dedicated [web site](#).

#4 FDCC & LCJ Hold "Summit" Conference

Last Friday, FDCC's Executive Director, Bernie Heinze (right) met in Washington, DC with Dan Steen (middle), Executive Director of [Lawyers for Civil Justice](#) (LCJ) and Alex Dahl (left), its General Counsel, to discuss our ongoing efforts and how we can work closer together on issues of mutual interest to both organizations.



More details will be coming soon... but among the initiatives discussed were:

- working with State legislators to adopt the proposed amendments to FRE 702;
- Third Party Litigation Funding;
- drafting rules on privilege logs to be submitted to the Civil Rules Committee;

- creating uniform rules to be instituted on a national basis pertaining to the sealing of documents;
- the superiority issue relating to class actions;
- establishing a portal of information on our website to be populated by FDCC state representatives that LCJ can tap into in order to stay abreast of legal and regulatory developments in the respective states; and
- drafting a rule to better educate judges on the pleading standards and motion practice in multidistrict litigation.

In addition, Alex and Dan will be among the speakers featured at this year's FDCC's Insurance Industry Institute in New York City on November 9-11, 2022 to provide updates on our mutual efforts. More details on the progress of our joint efforts will follow.

#5 Welcome Our New Members



The FDCC is proud to announce the following Defense Counsel have been admitted into the Federation this week.

Please join us in welcoming them!

- [Julian G. Senior](#) is the Founding Partner at [SJM Law](#) in El Segundo, CA, where he focuses his practice on product liability, consumer litigation and fraud within the automotive, pharmaceutical and commercial products industries. Julian has

tried numerous cases to verdict and handled cases involving brain injury, paralysis, amputation and wrongful death in California, as well as a number of other states. Julian frequently speaks at national and industry seminars and provides training to clients and their employees, providing them with tools to navigate through litigation and pre-litigation matters. He has spoken on topics ranging from preparation of Japanese witnesses, to fraud, to trial procedure and more.

- [Danielle N. Malaty](#) is a Shareholder with [Kopka Pinkus Dolin](#) in Chicago, IL where she defends both governmental and private entities. Her area of expertise includes discrimination, retaliation, violations of Title VII of the Civil Rights Act, sexual assault and abuse, violations of the Fair Housing Act, class action litigation, legal malpractice, and employment disputes. Danielle is also an experienced litigator in premises liability, product liability, community association law, professional liability, and subrogation. Her writing has been published by DRI, Bloomberg BNA, ABA, and NRRDA. She is a frequent speaker on continuing education panels through several organizations, including CLM and PLRB.
- [Justin M. Cuniff](#) is a Partner in [Kiernan Trebach's](#) Annapolis, MD office where he focuses his practice on the defense of product liability, construction/design defect, premises liability, mass/toxic tort, Federal Employers' Liability Act (FELA), medical malpractice, transportation litigation, and insurance coverage matters. Justin also provides guidance on compliance matters regarding the Medicare Secondary Payer Act and the Medicare, Medicaid, and SCHIP Extension Act of 2007 in association with the resolution of general liability and FELA claims. Justin and his wife [Andrea](#) live in Annapolis, MD.
- [Benjamin H. Brewton](#) is a partner with [Balch & Bingham, LLP](#) in Augusta, GA where his practice focuses primarily on the defense of significant personal injury and wrongful death litigation as well as substantial commercial lawsuits. He has tried more than 100 jury trials to verdict and, in those trials, has represented clients in matters involving medical liability, electrical utility injury and death, aviation negligence, premises liability, insurance coverage disputes, and felony criminal cases. To the "occasional amusement of his children," Ben is quite passionate about trees. He serves as Treasurer and is on the board of [Trees for Augusta](#)

which works to keep Augusta's urban forest thriving. Ben and his wife [Heidi](#) live in Augusta, GA.

Welcome Aboard!

#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:

- **July 25 - 30, 2022: FDCC's Annual Meeting** at the Hyatt Regency Hotel in Seattle, WA. [Click here to register.](#)
- **August 16-17, 2022: FDCC Virtual Deposition Boot Camp** - 10:00am to 6:00PM ET. Register by emailing: danielle@thefederation.org.
- **October 16-18, 2022: FDCC's Corporate Counsel Symposium** at the Downtown Marriott in Philadelphia, PA. 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.

- **February 19 - 23, 2023: FDCC's Winter Meeting** at the Omni Hotel in Nashville, TN.
- **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

...and finally...
Have a Nice Day
Susan Gunter!



Susan is a Partner with **Dutton Brock, LP** in Toronto, Ontario, where her litigation practice focuses on insurance, professional and general liability and casualty claims in defence of domestic and international corporations and insurers. She has been a valued member of the FDCC since 2015.

Susan specializes in defending professional liability, products, occupiers and commercial vehicle cases. She has appeared before federal and provincial tribunals and at all levels of court in Ontario as well as the Federal Court of Canada.

She has tried motor vehicle, regulatory negligence, insurance coverage, sexual assault, occupier's liability, marine law, disability insurance and medical malpractice cases. She is consulted frequently for legal and risk management education and speaks frequently on professionalism and ethics, lawyers' professional regulation, litigation and privacy.

Susan has served as President of Canadian Defence Lawyers (2009-2010), Director of The Advocates' Society (2012-2014). She is a founding director of

the Canadian Defence Lawyers Foundation and current member of the CDL Public Policy Secretariat, Women's Caucus and Diversity & Inclusion Committee. Susan serves as the Chair of the DRI Center for Law and Public Policy Globalization Working Group, focusing on privacy law, law profession regulation and law-tech initiatives. Susan chaired the DRI for Life lawyer wellness committee and was DRI Canada Region Director (2014-2017) and State Representative for Canada (2011-2014).

Now if the foregoing were not already representative of exceptionalism and emblematic of the highest achievements, there is even more. Last night, Susan was honored by the **Ontario Bar Association** with the organization's **Joel Kuchar Award for Professionalism and Civility**, during its annual Awards Gala in Toronto. As the organization stated: Susan is one of the "outstanding members of the profession who has made exceptional contributions to the practice of law in Ontario and to the Ontario Bar Association."

We couldn't agree more.

If you have a moment, please join us in sending Susan an email:

sgunter@duttonbrock.com

to congratulate her on this outstanding recognition by her peers and to wish her 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



FDCC

DEFENSE LAWYERS. DEFENSE LEADERS.



**KEEP
CALM
AND
DEFEND
ON**

Be Exceptional Today!