



May 19, 2023 -- Issue 172



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 LCJ Update
By: Howard Merten - FDCC President



I had the privilege of representing the FDCC at the spring meeting of the [Lawyers for Civil Justice](#) in Washington recently. It is an impressive organization, with a tremendous track record, and we should be proud of the part the FDCC and its members have played in those successes. Of course, there are many areas of the rules of civil procedure and dispute resolution still in need of improvement. The Federation, alongside LCJ, are focused on several important issues.

Most recently, LCJ and the Sister Organizations (ADTA, DRI and IADC) spearheaded efforts to obtain approvals from both the Judicial

Conference and the US Supreme Court changes made to FRE 702. In the absence of congressional action, these changes will go into effect on December 1, 2023. You have hopefully heard of the joint effort of the Sisters, “Don’t Say Daubert.” The approved rule changes attempt to correct the missteps of many courts that failed to take to heart the gatekeeping function of earlier amendments to FRE 702, and instead too often deferred to a jury’s determination of the “weight” of expert evidence. These rule changes clarify it is the *judge’s* responsibility to make a serious assessment of the admissibility of expert testimony and that the burden is on the proponent of such testimony to show that it is more likely than not that all of the requirements of Rule 702 are satisfied before such testimony gets to the jury.

Getting the rule changes approved is only half the battle. Defense attorneys must also make efforts to ensure the intent of the changes and the role of judges in this process take effect. That requires that courts look to the actual text of Rule 702 and not past decisions that got it wrong. LCJ has already begun those efforts in an amicus brief filed with the Fifth Circuit on May 3, 2023. Here is a [link to that brief](#), if you want to get a head start on analyzing the kinds of arguments you can make to bring the battle to your cases.

Rule 702 is just one of the critical issues LCJ is working on with the Federation and others. Improving the process of preparing privilege logs, controlling third party litigation funding, developing new avenues of defending No Value Class Actions are just a few of the other efforts under way.

As one of the founders of the Lawyers for Civil Justice, the Federation has a long history of working side-by-side with LCJ to improve the judicial system and achieve the promise of Rule 1 of a just, speedy, inexpensive determination of civil actions. The battle continues, but we have strong allies.

#2 How Are You Today?



"A profession in crisis" is the way New Jersey bar president Jeralyn Lawrence described the state of the bar following a recent survey of 1,643 attorneys in the state. [The survey](#) revealed that while 51% of New Jersey lawyers feel enthusiastic about being a lawyer often, very often or always:

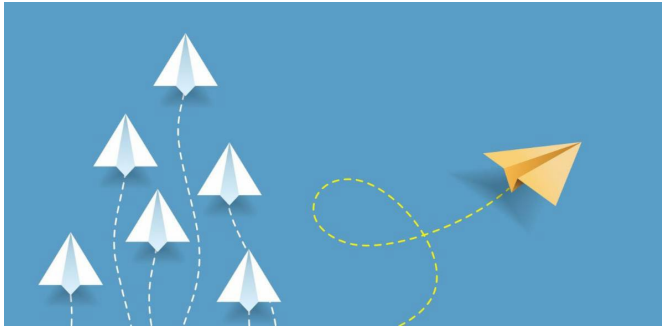
- 68% reported feeling anxious in the past two weeks;
- 56% reported a high prevalence of alcohol misuse;
- 49% of lawyers reported moderate to high levels of burnout;
- 49% reported feelings of isolation;
- 23% reported a high prevalence of depressive symptoms;
- 28% of attorneys considered leaving the profession as a result of mental health, burnout or stress; and
- 10% reported thoughts of suicidal ideation.

Research by bar associations in [New York](#), [Massachusetts](#), [California](#) and the District of Columbia has reached similar conclusions in recent years.

As we all work to eliminate the stigma of mental illness within our firms and companies every day, let's also take time during this Mental Health Awareness Month to look within and acknowledge whether there may be issues we're experiencing that can be addressed and develop a plan to help manage them.

The [FedLife Committee](#) is here to help. Come to our session at the Annual Meeting and watch for regular podcasts and articles as we work together on professional as well as personal challenges, issues and opportunities.

#3 A Paradigm Shift: Bad Faith Litigation in FL By: Michael Kiernan



It is undeniable that over the last several months, there has been a sea change in the area of bad faith law in Florida, both in the first and third party arenas. Such change has been long overdue as Florida has been home to the vast majority of property insurance lawsuits

in the United States.

As a result of the ailing property insurance market in Florida, the Legislature passed a series of laws in an effort to curb the tide of property insurance litigation, with the most recent change signed into law on December 16, 2022 (“SB 2A”). Following that positive development, the Florida Legislature and Governor DeSantis enacted Florida’s Tort Reform Bill (“HB 837”) on March 24, 2023, which changed tort law in Florida and spurred record filings in anticipation of the law going into effect.

What follows is a synopsis of the tort reform changes related to the area of third-party bad faith, specifically the time to respond to a demand and the procedure for an insurer to interplead policy limits or pursue binding arbitration in the event multiple parties have competing claims. To contrast the first party changes, a brief overview of the salient first party changes is included at the end. It should be noted that our esteemed colleague, Frank Ramos, has provided an [extensive overview of the entirety of HB 837](#), and this article is meant to be a brief summary of the key portions of HB 837 addressing certain scenarios in the third-party arena as well as first-party.

[Michael Kiernan](#) is an FDCC Defense Counsel member and a Partner at [Traub Lieberman](#) in St. Petersburg, FL. He was assisted in writing this article by Susan Deng and Steven Hollis at the firm.

[Click Here to read the Full Article](#)

#4 Corporate Counsel Symposium Update



The CCS 2023 Committee (under the leadership of FDCC Defense Counsel member [Bill Vita](#) and Corporate Counsel [Alison Christian](#)), has been working non-stop over the past several months to identify the challenges and solutions for Corporate Counsel in today's dynamic environment.

This year's event will take place **October 22 - 24 at the Philadelphia Downtown Marriott Hotel** and will feature key thought leaders and subject matter experts in an interactive discussion to provide the tools and resources required to collaboratively access "**The Leadership in WE.**"

Here's a brief look at the agenda:

- Review of Supreme Court decisions effecting the corporate world and a look forward to 2024
- Class Action Current Developments/Best Practices
- MDL Updates
- Chat GPT & Digital Health: Will A Robot Take Your Desk Job? Pros and Cons (including cyber-attacks and privacy concerns) of digital health care
- Pay Transparency Laws and Modern Labor Organizing and the NLRB.
- Independent Contractors and the FLSA, mass layoffs, and non-compete agreements under attack by the FTC
- Strength-Based Leadership for High Performing In-House Legal Teams and Departments
- Diversity - Why It Works For Everyone
- The Increasing Importance of ESG: In-House Counsel's Role in Driving the Business's ESG Strategy
- Doing Business Beyond U.S. Borders
- Lessons from The *Varsity Blues* Scandal

This is a **MUST ATTEND** event for all Corporate Counsel, Defense Counsel and their clients.

Save the date for now...registration opens this Summer.

#5. New Podcast Episode Released



Valerie Kellner



Vincent Castiglione



Please Click the "Play" Button to hear the Podcast

In this week's FedSpeaks podcast episode, [Valerie Kellner](#) is back with her series on "**How FDCC Members Are Getting It Done**" with one of the busiest Corporate Counsel in the business, [Vincent Castiglione](#), Vice President, General Counsel and Secretary of [TATA Consumer Products](#), whose brands include EIGHT O'CLOCK coffee and TETLEY, GOOD EARTH, and TEAPIGS teas.

Hear how Vince:

- Deals in a hybrid environment with his colleagues in India
- Holds regular conference calls at 7:00AM
- Deals with the changing priorities between strategic and tactical opportunities
- Leverages a "25 minute maximum" meeting rule
- Makes the time to always give back to the legal community and the FDCC

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!



#5.1 Welcome Our New Members!

Please join us in welcoming our newest members!



[Martha S. Kersey](#) is Director of Casualty Claims with [Church Mutual Insurance Company](#) in Merrill, WI, where her responsibilities include managing the large loss casualty team of 21 professionals. She is also responsible for all large loss casualty claims across the country. Prior to her current role, Martha worked at Amerisure Insurance Company, QBE and Country Financial.

She is also the author of several articles, including: LexisNexis Legal Newsroom

Insurance Law: New Appleman on Insurance Law Library Edition, Ch. 18 Duty to Indemnify-Bodily Injury and Property Damage (July 2, 2010).



[Julia M. Grus](#) is Senior Litigation Counsel with [Shelter Insurance Company](#) in Columbia, MO, where she manages a litigation caseload of approximately 250 lawsuits in 12 different states, and provides legal advice to Shelter Insurance claims branches regularly. Prior to her current role, Julia worked with Veterans United Home Loans; Oliver, Walker Wilson, LLC and the State of Missouri. She and her husband Terrence reside in Columbia, MO.



[Jonathan R. Hammond](#) is Corporate Counsel with [DCI Engineers](#) in Spokane, WA, where his responsibilities include monitoring and responding to claims against company and overseeing outside counsel defending DCI from claims; advising leadership on risk management issues, including drafting/revising corporate policies, contract terms/negotiations, insurance coverage and other matters. Prior to his current role, Jonathan was with Bohrsen Stocker Smith, PLLC in Spokane; Wood Smith Henning &

Berman LLP in Riverside, CA and Lanak & Hanna in Orange, CA. He and his wife [Fabiola](#) reside in Spokane, WA.

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:

- **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](#)

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...and finally...
Have a Nice Day
Nicholas R. Monlux !



Nicholas is a Partner with **Kobayashi Sugita Goda LLP** in Honolulu, HI where he concentrates his practice in the areas of complex commercial litigation (including class action defense), catastrophic fires investigation and defense, personal injury defense, construction defect litigation, real estate law (including residential and commercial landlord/tenant disputes), foreclosure litigation, premise/product liability litigation, and condominium/community association law.

He handles all aspects of litigation, including trial, motions practice, arbitration, discovery, settlement negotiations, mediations, and fact investigations.

He has been a valued FDCC Defense Counsel member since 2020...and today is his birthday.

Please join us in sending him an email:

nrm@ksqlaw.com

to wish him Hau'oli Lā Hānau!

Our very best wishes for continued good health, success and happiness to you, Amalie, and the family!

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!