

# 2020 Environmental & Energy, Mass Torts, and Products Liability Litigation Committees' Joint Regional CLE Program

The Westin Snowmass Resort  
Snowmass Village | CO

*Presented by the Section of Litigation Environmental & Energy, Mass Torts, and Products Liability Committees*

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**ABA**  
AMERICAN BAR ASSOCIATION  
Litigation Section

JANUARY 29-31  
**2020**



The ABA will seek **9.0** CLE credit hours (including **1.0** ethics hour) in 60-minute states, and **10.8** CLE credit hours (including **1.2** ethics hours) in 50-minute states. Credit hours are estimated and are subject to each state's approval and credit rounding rules.

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# Program Agenda\*

JANUARY 29-31

# 2020

## WEDNESDAY, JANUARY 29, 2020

2:00 PM – 4:00 PM Registration

4:00 PM – 5:00 PM Committee Meetings

5:00 PM – 6:00 PM **Potential Health Risks & Regulatory Hurdles Associated with Cannabis & Its Concentrates**  
Consumption of cannabis concentrate products now constitutes a substantial and growing percentage of cannabis use. Cannabis concentrates consist of a range of products that are produced by treating the raw cannabis vegetable matter with a solvent to isolate the chemical components of interest. After reviewing the various extraction methods and quality assessment challenges, the panel will discuss what is known (and unknown) about the potential toxicological effects of cannabis extracts. Further, the panel will focus specifically on increased potency, solvent and pesticide residues, terpenes, solvent impurities and flavorings/fragrances.

GENERAL  
CLE

**Moderator:** Joseph R. Englander, Fowler White Burnett PA, Miami, FL

**Speakers:** Dr. Julie L. Horton, Burdock Group Consultants, Orlando, FL; Dr. James W. Rice, Gradient, Cambridge, MA; Daniel S. Wittenberg, Snell & Wilmer, Denver, CO

6:00 PM – 7:30 PM Welcome Reception

## THURSDAY, JANUARY 30, 2020

6:00 AM – 8:00 AM Breakfast & Registration

7:00 AM – 8:00 AM **Securing Legal Data: When the Advice Givers Need Advice**

Lawyers now live in an era when “cybersecurity” and “hacking” are challenges that confront even the smallest of law firms. Recent ethics opinions bring into sharp focus the ethics rules applicable to protecting client information. In both an informative and practical presentation, you will walk away with a checklist of steps you can take individually and as a firm to improve your chances of avoiding the dreaded call: “You’ve been hacked.”

ETHICS  
CLE

**Speaker:** John M. Barkett, Shook Hardy & Bacon LLP, Miami, FL

8:00 AM – 8:15 AM *Welcome Remarks*

8:15 AM – 9:30 AM **Flint Drinking Water Crisis: Litigation Lessons to be Learned**

The Flint drinking water “crisis” has taught many lessons, and this high profile panel will highlight some of those from a litigation perspective. There are hundreds of lawsuits pending in federal and state court asserting environmental, toxic tort and class action claims against state and local governments and other defendants. We are fortunate to hear from the federal court-appointed Special Master overseeing this Flint litigation, who also brings experience from other high profile disputes such as Agent Orange and 9/11 victims compensation. We also have the Plaintiffs’ perspective from liaison counsel for hundreds of the Flint individual personal injury claimants. The “Court of Public Opinion” – from news outlets to social media, and local citizens to various stakeholder groups – will also be discussed by an experienced public relations expert sharing lessons learned/best practices since each audience can have a significant impact on the course of litigation from the outset. Underlying all of this are the toxicity and technical considerations of federal and state safe drinking water regulations, and so a water resources expert has been invited to explain these underlying concerns.

GENERAL  
CLE

**Speakers:** Deborah Greenspan, Blank Rome LLP, Washington, D.C.; Karen M. Kirchenbauer, SeyferthPR, Grand Rapids, MI; Kendra Lounsbury, Barnes & Thornburg LLP, Los Angeles, CA; Corey M. Stern, Levy Konigsberg LLP, New York, NY

*\*Subject to Change*

# Program Agenda\*

JANUARY 29-31

# 2020

## THURSDAY, JANUARY 30, 2020

**9:30 AM – 9:45 AM** Coffee Break

**9:45 AM – 11:00 AM** **Yours, Mine, & Auer's: Agency Deference in 2020**

After the 2019 *Kisor* Supreme Court decision, practitioners were surprised to see the survival of *Auer* deference to an agency's interpretation of its own regulations, albeit in a narrower form. And so, where do we go from here? This panel provides a guide for practitioners, courts, and even the agencies themselves.

GENERAL  
CLE

**Moderator:** Michelle Molinaro Burke, Porzio Bromberg & Newman PC, Morristown, NJ

**Speaker:** Professor William W. Buzbee, Georgetown Law, Washington, D.C.; Karen Crawford, Nelson Mullins Riley & Scarborough LLP, Columbia, SC; John C. McMeekin, Rawle & Henderson LLP, Philadelphia, PA; Heidi K. Ruckriegle, Wilmer Cutler Pickering Hale and Dorr LLP, Denver, CO

**11:00 AM – 11:15 AM** Networking Break

**11:15 AM – 12:15 PM** **Mass Torts Committee Breakout: The High Stakes World of Emissions Litigation — An International Scorecard on the State of Play and What's Next**

This panel will survey the landscape of emissions litigation as it has emerged in recent years. It will address the most significant features of that litigation and identify issues of broader relevance for products and environmental liability. This panel will also address the interplay of regulatory and civil cases, and how this affects both what is at stake in these claims and what remedies may be offered in a class action context. It will consider how these class actions in the United States influence the emissions legal landscape around the world, and identify the next battlegrounds in this rapidly expanding and evolving area of the law.

GENERAL  
CLE

**Speakers:** Nicole Henderson, Blake Cassels & Graydon LLP, Toronto, ON; Kyle Jones, Fiat Chrysler Automobiles US LLC, Auburn Hills, MI; Logan MacCuish, King & Spalding LLP, Los Angeles, CA; Michael Smith, Bennett Jones LLP, Toronto, ON

**11:15 AM – 12:15 PM** **Environmental & Energy Committee Breakout: PFAS: Forever Chemicals That Are Everywhere, Even Courthouses**

This panel will explain why PFAS compounds are such a significant regulatory and litigation focus, including for real property and toxic tort litigation. Forensic environmental causation and similar expert roles for sites impacted by PFAS will be presented. There will also be an overview of pending litigation arising from PFAS releases to the environment. Property valuation claims and valuation issues related to PFAS impacts will be reviewed, as well as Colorado's insights on state and federal government PFAS regulation and enforcement.

GENERAL  
CLE

**Moderator:** Stephen Valdez, Delta Valuation Inc., Ladera Ranch, CA

**Speakers:** Orell C. Anderson, Strategic Property Analytics Inc., Laguna Niguel, CA; Catherine Boston, Roux Associates Inc., Woburn, MA; Charlie M. Denton, Barnes & Thornburg LLP, Atlanta, GA; Matthew Miller, Office of Colorado Attorney General, Denver, CO

**7:30 PM – 10:00 PM** Dine Arouds (*pay on your own*)

*\*Subject to Change*

# Program Agenda\*

JANUARY 29-31

# 2020

## FRIDAY, JANUARY 31, 2020

**7:00 AM – 8:00 AM** Breakfast & Registration

**7:30 AM – 8:45 AM** **Waive Goodbye: What to Do After a Privilege Waiver**

Issues of waiver are often thorny and complex, particularly when dealing with large productions. This panel explores the legal background and current case law on the scope of waivers, as well as strategies for working with in-house counsel after a waiver may have occurred.

**Speakers:** **Kendra Jones**, Tyson Foods Inc, Springdale, AK; **Adina Storch**, Cedar Realty Trust, Port Washington, NY

GENERAL  
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**8:45 AM – 9:00 AM** Coffee Break

**9:00 AM – 10:15 AM** **Mass Tort and MDL Settlements — Changes Ahead?**

Professor Elizabeth Burch's recently-published book, "Mass Tort Deals: Backroom Bargaining in Multidistrict Litigation," concludes that a "systemic lack of checks and balances in our courts may benefit everyone but the plaintiffs." Featuring the author and experienced mass tort and MDL counsel for plaintiffs and defendants, this panel will discuss the state of play in mass torts and MDL settlements and recommendations, including court control over private settlements, limiting lead lawyers' payouts to claimants' payments, and changing how judges choose lead lawyers.

**Moderator:** **Meaghan Goodwin Boyd**, Alston & Bird LLP, Atlanta, GA

**Speakers:** **Professor Elizabeth Burch**, University of Georgia School of Law, Athens, GA; **Paul D. Rheingold**, Rheingold Giuffra Ruffo & Plotkin LLP, New York, NY; **Angela M. Spivey**, Alston & Bird LLP, Atlanta, GA

GENERAL  
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**10:15 AM – 10:30 AM** Networking Break

**10:30 AM – 11:30 AM** **Mass Torts Committee Breakout: Public Nuisance Law and Its Impact on the Opioid Litigation and Future Mass Torts**

An ill-defined by oft-used doctrine, public nuisance comes up in many large cases over the pressing social issues of the day, from pollution, to handguns, to the opioid epidemic. This panel focuses on the many lawsuits filed in response to the opioid crisis, and how these claims have affected the public nuisance doctrine on broader legal and societal levels.

**Moderator:** **Edward Gaus**, Shook Hardy & Bacon LLP, San Francisco, CA

**Speakers:** **Michael Estok**, Lindsay Hart LLP, Portland, OR; **John D. Noor**, Roberts & Stevens PA, Asheville, NC; **Abby R. Wolf**, Lief Cabraser Heimann & Bernstein LLP, San Francisco, CA

GENERAL  
CLE

**10:30 AM – 11:30 AM** **Products Liability Committee Breakout: Alexa, Am I Liable? Products Liability Implications of Innovative Products**

How will existing products liability laws apply to innovative products of the 21st Century? Today we live with products designed and manufactured with additive manufacturing (or 3D Printing), services incorporating Artificial Intelligence, devices using the Internet of Things, and drugs incorporating genomics/genomics and personalized medicine. This panel will discuss how these and other advances in technology give rise to new and complicated legal theories of liability and defenses.

**Speakers:** **David L. Ferrera**, Nutter McClennen & Fish LLP, Boston, MA; **Rayna E. Kessler**, Robins Kaplan LLP, New York, NY; **Stephen G.A. Myers**, Irwin Fritchie Urquhart & Moore LLC, New Orleans, LA; **Richard Underwood**, Exponent, Philadelphia, PA

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Litigation Section

# General Information

## Cancellations and Substitutions

Requests for refunds must be made in writing and received no later than **January 15, 2020** in the ABA Section of Litigation office. Please email your request to Corey Irion at [Corey.Irion@americanbar.org](mailto:Corey.Irion@americanbar.org). There will be a \$10 administrative fee deducted from the refund. Cancellations received after January 15, 2020 will not be refunded; however, the Section will gladly accept substitutions for those unable to attend.

## Hotel

The Westin Snowmass Resort  
100 Elbert Lane  
Snowmass Village, CO 81615

Wildwood Snowmass Hotel  
40 Elbert Lane  
Snowmass Village, CO 81615

## Airport and Transportation Information

Aspen-Pitkin County Airport (ASE)  
Travel Distance: 8 miles

Eagle County Airport (EGE)  
Travel Distance: 70 miles

To access ABA-negotiated airfare discounts for travel, please visit [americanbar.org/travel](http://americanbar.org/travel). Discounted ground transportation is offered by **Epic Mountain Express** via van from major Colorado airports to both hotels.

## Winter Activities

Aspen Snowmass is offering Joint Regional CLE Program attendees savings on lift tickets and snow school programs, starting at \$145 for adults and \$94 for youth. The Joint CLE Ski Lift Vouchers will be distributed at the program registration desk at The Westin Snowmass on Wednesday, January 29, beginning at 2:00 PM. Please contact **Will Taylor** if you plan to ski prior to or on January 29 and/or if you have any questions.

## MCLE Credit

The ABA will seek **9.0** CLE credit hours (including **1.0** ethics hours) in 60-minute states, and **10.8** CLE credit hours (including **1.2** ethics hours) in 50-minute states. Credit hours are estimated and are subject to each state's approval and credit rounding rules. Please visit [www.americanbar.org/mcle](http://www.americanbar.org/mcle) for general information on CLE at the ABA.

## Tuition Assistance

A limited number of scholarships to defray registration fees may be available for government employees, public interest lawyers employed with nonprofits, academics, unemployed attorneys, and law students. For more information, please contact: Corey Irion at 312-988-6245 by **December 18, 2019**.

## Attendance List

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# Registration Form:

2020 Environmental & Energy, Mass Torts, and Products Liability Litigation Committees' Joint Regional CLE Program

Please complete the registration form below or click [here](#) to take you to the registration page.

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Email: \_\_\_\_\_

A limited amount of scholarships are available for this program. For more information, please contact Corey Irion [corey.irion@americanbar.org](mailto:corey.irion@americanbar.org) by December 18, 2019.

## Registration Information:

- \$395 Section of Litigation Members
- \$465 ABA Members
- \$535 Non-ABA Members
- \$295 Young Lawyer/Gov/Academic/Public Service
- \$50 In-House Counsel
- \$25 Law Students

## Payment Information

- I will attend the CLE program and my payment of \$\_\_\_\_\_ is enclosed.
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Chicago, IL 60654  
Secure Fax Number: 312-988-5850

# Registration Information

Please register by **January 15, 2020** to reserve your spot. We encourage you to register using the online registration [here](#). If you are unable to register online, use the registration form to register by mail or fax only. In order to protect your credit card information from being compromised, we do not accept credit card payments via email.

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