



Section of Litigation

# Environmental, Mass Torts and Products Liability Litigation Committees' Joint CLE Seminar

# 2011

**JANUARY 27–29, 2011**

The Silvertree Hotel • Snowmass, CO



9.6 hours of MCLE credit, including 1 hour of ethics credit, have been requested in 60-minute states and 11.6 hours of MCLE credit, including 1.2 hours of ethics credit, have been requested in 50-minute states.

## Why You Should Attend

If your practice involves litigation in environmental, mass torts or products liability matters, you must keep apprised of the latest developments in the law and how these cases are managed and taken to trial. This two-day CLE program is your opportunity to interact with and hear from in-house and trial counsel, experts and members of the judiciary as they address litigation issues and techniques in these practice areas. Join us for this remarkable seminar, and while you're at it, bring along the family to enjoy one of the finest winter resorts in the United States.

## What You Will Learn

- The hottest issues and latest developments in environmental, mass torts and products liability litigation
- The appropriate way to respond to a client crisis, including initial response, preservation of evidence, controlling communications, maintaining privilege, managing claims, and dealing with the media
- In-house counsel will reflect on "the new normal" in litigation management and budgeting and will discuss the latest tools and developments
- Class action litigation developments five years after the passage of the Class Action Fairness Act of 2005
- What to do when your case becomes a mass tort
- Legal and practical considerations at the intersection of bankruptcy and environmental law
- The current state of medical monitoring claims and how they are being treated around the country

## Who Should Attend

- All attorneys who litigate in the areas of environmental, mass torts and products liability litigation
- In-house counsel and litigators who are interested in discussing the impacts of a down economy
- In-house counsel and seasoned practitioners needing an update from leading trial lawyers, experts and members of our judiciary on litigation techniques, trial presentation, and the latest legal developments

## Thank You to our Committee and Seminar Co-Chairs

### **Co-Chairs, Environmental Litigation Committee:**

Douglas S. Arnold and Kevin J. Bruno

### **Co-Chairs, Mass Torts Litigation Committee:**

Andrew J. Maloney, Beatrice O'Donnell and Rudy Perrino

### **Co-Chairs, Products Liability Committee:**

Jerry G. Bradford, Nathaniel Cade, Jr. and Lori B. Leskin

### **Seminar Co-Chairs:**

James P. Ray and Kelly Anne Luther

# SCHEDULE—AT—A—GLANCE

## THURSDAY, JANUARY 27, 2011

4:00 pm – 6:00 pm

- Registration

4:30 pm – 6:00 pm

- Committee Meetings  
*As scheduled by your committee*

6:00 pm – 7:30 pm

- Welcome Reception

## FRIDAY, JANUARY 28, 2011

6:00 am – Noon

- Registration

6:00 am – 7:30 am

- Breakfast

6:30 am – 7:30 am

Ethics Session—CLE

*Conquering Ethical Moguls  
and Icy Black Diamonds*

7:30 am – 7:45 am

- Welcome/Program Kickoff

7:45 am – 9:15 am

Plenary Session—CLE

*In-House Counsel Panel: The New Normal—  
Litigation Management and Budgeting*

9:15 am – 9:30 am

- Coffee Break

9:30 am – 10:45 am

Plenary Session—CLE

*What You Don't Know Can Hurt You: The Latest  
Developments All Litigators Need to Know*

10:50 am – Noon

Products Liability Breakout—CLE

*Understanding Medical Monitoring Damages*

10:50 am – Noon

Environmental Breakout—CLE

*The Intersection of Environmental  
and Bankruptcy Law*

4:00 pm – 5:15 pm

- Committee Meetings  
*As scheduled by your committees*

5:15 pm – 6:15 pm

Young Lawyers Breakout—CLE

*Thinking Ahead: The Difference Between  
Winning and Losing Your Case*

6:15 pm – 7:00 pm

Young Lawyer & In-House Counsel Reception

7:00 pm – 10:00 pm

- Dinner Event

## SATURDAY, JANUARY 29, 2011

7:00 am – Noon

- Registration

7:00 am – 8:00 am

- Breakfast

7:30 am – 8:45 am

Plenary Session—CLE

*Crisis Response and Management*

9:00 am – 10:15 am

Plenary Session—CLE

*CAFA: 2005 and Beyond*

10:15 am – 10:30 am

- Coffee Break

10:30 am – 11:45 am

Mass Torts Breakout—CLE

*What to Do When Your Case Becomes a Mass Tort*

10:30 am – 11:45 am

Products Liability Breakout—CLE

*Products Liability Year in Review*

# MODERATORS & SPEAKERS

**Frederick P. Alimonti**

*Alimonti Law Offices, P.C.*  
White Plains, NY

**Pierre G. Armand**

*U.S. Department of Justice*  
New York, NY

**John M. Barkett**

*Shook Hardy & Bacon L.L.P.*  
Miami, FL

**Hon. Rosemary Barkett**

*U.S. Court of Appeals,  
Eleventh Circuit*  
Miami, FL

**Evelyn H. Brantley**

*E.I. du Pont de Nemours &  
Company, Inc.*  
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**James M. Beck**

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**Linnea Brown**

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Denver, CO

**Nathaniel Cade, Jr.**

*Michael Best Friedrich LLP*  
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**Larra Call Waldmann**

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*LyondellBasell Industries*  
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**Otway B. Denny, Jr.**

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Houston, TX

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Houston, TX

**John A. Earnhardt**

*Maynard, Cooper & Gale, P.C.*  
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**B. Shawan Gillans**

*Buist Moore Smythe  
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Charleston, SC

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Baltimore, MD

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Phoenix, AZ

**M. Natasha Labovitz**

*Kirkland & Ellis LLP*  
New York, NY

**Deborah Lewis**

*Yoss White & Wiggins*  
Dallas, TX

**Hon. Barbara M.G. Lynn**

*U.S. District Court,  
Northern District of Texas*  
Dallas, TX

**Andrew J. Maloney**

*Kreindler & Kreindler LLP*  
New York, NY

**Susan A. Manardo**

*Sanofi-Aventis*  
Bridgewater, NJ

**Neil R. Marder**

*Winston & Strawn LLP*  
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**Byron K. Mason**

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**Catherine R. Riegler**

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**Hon. Shira A. Scheindlin**

*U.S. District Court,  
Southern District of New York*  
New York, NY

**David L. Smiga**

*U.S. Steel Corporation*  
Pittsburgh, PA

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Boston, MA

**Dana Taschner**

*The Lanier Law Firm*  
Los Angeles, CA

**David J. Vendler**

*Morris Polich & Purdy LLP*  
Los Angeles, CA

**Sylvius Von Saucken**

*The Garretson Firm*  
*Resolution Group, Inc.*  
Cincinnati, OH

**Robert A. Wells**

*Norfolk Southern*  
Norfolk, VA

**David F. Williams**

*Cadwalader, Wickersham  
& Taft LLP*  
Washington, DC

**Karen Woodward**

*Sedgwick, Detert, Moran &  
Arnold LLP*  
Los Angeles, CA

# PROGRAM INFORMATION

## THURSDAY, JANUARY 27, 2011

4:00 pm – 6:00 pm

- Registration

4:30 pm – 6:00 pm

- Committee Meetings  
As scheduled by your Committee

6:00 pm – 7:30 pm

- Welcome Reception

## FRIDAY, JANUARY 28, 2011

6:00 am – Noon

- Registration

6:00 am – 7:30 am

- Breakfast

6:30 am – 7:30 am

Ethics Session—CLE

### *Conquering Ethical Moguls and Icy Black Diamonds*

Steer through the moguls and get down an icy black diamond trail of ethical challenges that present themselves when you least expect them. This interactive “Ethics” presentation challenges a panel of lawyers and the audience to various ethical questions. The hypothetical questions will be presented in the context of products/environmental/mass torts cases. A lawyer from each of the committees will make up the panel, and there will also be audience participation. The rules to be discussed are: Rule 1.2—Lawyer Shall Abide Client’s Decisions; Rule 1.5—Fees and Divisions of Fees; Rule 1.6—Confidentiality of Information; Rule 1.7—Conflicts of Interest—Existing Clients; Rule 3.1—Non-Meritorious Claims and Contentions; and Rule 3.4—Fairness to Opposing Party and Counsel.

**Moderator:** Frederick P. Alimonti

**Panelists:** John M. Barkett, Nathaniel Cade, Jr., Andrew J. Maloney

7:30 am – 7:45 am

*Welcome/Program Kickoff*

7:45 am – 9:15 am

Plenary Session—CLE

### *In-House Counsel Panel: The New Normal—Litigation Management and Budgeting*

Clients are putting increased pressure on in-house and outside counsel to reduce the costs of litigation, further raising the importance of litigation management and budgeting. This panel will explore the myths, realities, and challenges of litigation budgets, initial case assessments, early resolution strategies, alternative fees, and project management.

**Moderator:** Byron K. Mason

**Panelists:** Evelyn H. Brantley, Larra Call

Waldmann, Susan A. Manardo, David L. Smiga

9:15 am – 9:30 am

- Coffee Break

9:30 am – 10:45 am

Plenary Session—CLE

### *What You Don’t Know Can Hurt You: The Latest Developments All Litigators Need to Know*

This fast-moving panel will examine recent and anticipated changes that materially affect the way litigators prepare, conduct and settle their cases. The discussion will include the obvious—pleading standard requirements after *Twombly* and *Iqbal* and Rule 26 changes regarding expert reports—as well as changes that are not necessarily on the radar screen, including Medicare Secondary Payer Reporting and Repayment Obligations, the American Law Institutes new Principles of the Law of Aggregate Litigation, and possible changes to the Rules of Civil Procedure.

**Moderator:** John B. Isbister

**Panelists:** Hon. Rosemary Barkett, James M. Beck, Dinita L. James, Sylvius Von Saucken

Continued...

# PROGRAM INFORMATION

## 10:50 am – Noon

Product Liability Breakout—CLE

### *Understanding Medical Monitoring Damages*

This panel will discuss the strategic, legal and factual issues relating to medical monitoring damages claims, including the state of the law and scientific understanding of disease processes, available testing methods for early detection, risk/benefit analyses that can be employed by courts to determine whether to award medical monitoring damages, and issues pertaining to class certification.

**Moderator:** Rudy Perrino

**Panelists:** Neil R. Marder, Dana Taschner

## 10:50 am – Noon

Environmental Breakout—CLE

### *The Intersection of Environmental and Bankruptcy Law*

This panel will examine several “hot topics” at the intersection of environmental and bankruptcy law. Topics will include dischargeable environmental claims vs. liabilities that “pass through” bankruptcy; the effect on claims for environmental indemnity and contribution by PRP creditors; and trust vehicles to receive and manage debtors’ liability and contaminated property portfolios.

**Moderator:** David F. Williams

**Panelists:** Pierre G. Armand, Steven D. Cook, M. Natasha Labovitz

## 4:00 pm – 5:15 pm

■ Committee Meetings

*As scheduled by your Committee*

## 5:15 – 6:15 pm

Young Lawyers Breakout – CLE

### *Thinking Ahead: The Difference Between Winning and Losing Your Case*

Hindsight is 20/20; don't get caught without the evidence you need. Join our panel of seasoned plaintiff, defense and in-house counsel to explore what you can do in your day-to-day discovery activities to be more prepared for trial and what you can do at trial to win on appeal.

**Moderator:** Catherine R. Riegler

**Panelists:** Larra Call Waldmann, John A. Earnhardt, Anthony Tarricone

## 6:15 pm – 7:00 pm

■ Young Lawyer & In-House Counsel Reception

## 7:00 pm – 10:00 pm

■ Dinner Event

## SATURDAY, JANUARY 29, 2011

**7:00 am – Noon**

- Registration

**7:00 am – 8:00 am**

- Breakfast

**7:30 am – 8:45 am**

Plenary Session—CLE

### *Crisis Response and Management*

Whether it is a fatal rail accident, catastrophic oil release, massive auto recall, or pharmaceutical scare, common issues emerge. The panel will address numerous topics, including the first 100 hours, preserving evidence, controlling communications, maintaining privilege, mitigation of damages, managing claims, dealing with the media and class action implications.

**Moderator: Karen Aldridge Crawford**

**Panelists: Otway B. Denny, Jr.,  
Hon. Barbara M.G. Lynn, Anthony Tarricone,  
Robert A. Wells**

**9:00 am – 10:15 am**

Plenary Session—CLE

### *CAFA: 2005 and Beyond*

This program will address the impact of the Class Action Fairness Act on the conduct of class action litigation since its enactment in 2005. As part of this presentation, panelists will provide an update on significant recent cases, as well as emerging issues that are the subject of current litigation.

**Moderator: Linnea Brown**

**Panelists: George Diaz-Arrastia, Hon. Shira A.  
Scheidlin, David J. Vendler**

**10:15 am – 10:30 am**

- Coffee Break

**10:30 am – 11:45 am**

Mass Torts Breakout—CLE

### *What to Do When Your Case Becomes A Mass Tort*

What do you do when one plaintiff becomes a thousand? When your toxic tort case spans multiple jurisdictions? Simple components of the litigation process become complex and unwieldy, not to mention the more nuanced and difficult issues of exposure and causation. This panel of cutting edge practitioners will discuss the various ways in which the discovery and trial processes are handled in a complex case. Issues to be covered include the MDL procedure and management of cases spanning multiple jurisdictions.

**Moderator: Karen Woodward**

**Panelists: Ralph A. Campillo, Paul D. Rheingold**

**10:30 am – 11:45 am**

Products Liability Breakout—CLE

### *Products Liability Year in Review*

Anyone who watched the news in 2010 knows it was a year of highs and lows. Join us and our two accomplished speakers for the always well received annual review of the highs and lows of 2010 as they relate to developments in the area of products liability law.

**Panelists: B. Shawan Gillans, Deborah E. Lewis**

# GENERAL INFORMATION

## Registration

The registration fee allows registrants to attend all CLE programs. In addition, the fee includes program materials, continental breakfasts and admission to the Welcome Reception on Thursday evening, and the Young Lawyer & In-House Counsel Reception on Friday.

The deadline for advance registration is **Friday, January 14, 2011**. Registration will take place on-site after this date.

On-site registration will take place during the following hours:

### Thursday, January 27, 2011

4:00 pm – 6:00 pm

### Friday, January 28, 2011

6:00 am – Noon

### Saturday, January 29, 2011

7:00 am – Noon

For information regarding registration, please contact Svetlana Kramarova Battaglin, at (312) 988-6247. To register on-line, visit the seminar's website at [www.abanet.org/litigation/jointcle-seminar](http://www.abanet.org/litigation/jointcle-seminar)

## Registration Cancellations

Requests for refunds must be made in writing and received no later than **Friday, January 14, 2011**, in the ABA Section of Litigation office. Please fax or email your request to Svetlana Kramarova Battaglin, at (312) 988-6234 or [kramaros@staff.abanet.org](mailto:kramaros@staff.abanet.org). A \$50 administrative fee will be deducted from the refund. **Cancellations received after January 14, 2011 will not be refunded**; however, the Section will gladly accept substitutions for those unable to attend.

## Airline Information

There are (3) convenient airports for your air transportation arrangements:

- **Eagle County Regional Airport (EGE)** is located 70 miles from Aspen/Snowmass and

is serviced by four airlines, with nonstop connecting flights from 12 cities during the winter, and connecting service from cities throughout North America and the world.

- **Aspen's Sardy Field (ASE)**, located just three miles from Aspen and eight miles from Snowmass Village, is the most conveniently located ski resort airport in the world. Aspen Airport is currently serviced by United Express, Frontier Airlines, and Delta Connection with up to 200 flights per week offering reliable, same-day connections from points across the globe.
- **Denver International Airport (DEN)** is a scenic three-and-a-half hour drive to Snowmass Village.

The American Bar Association has launched an online travel site where you can receive ABA discounts from a variety of carriers and purchase low fare tickets. ABA Online Travel can be accessed at [www.abanet.org/travel/onlineTravel.html](http://www.abanet.org/travel/onlineTravel.html). Reservations can also be made with the ABA Orbitz for Business agent at (877) 222-4185.

## Ground Transportation

The Silvertree Hotel offers complimentary airport shuttle service from Aspen's Sardy Field (ASE); please call from the transportation services kiosk at the airport.

Colorado Mountain Express offers door-to-door shared ride shuttles and private car services from Denver International Airport and Eagle County Regional Airport. An unsurpassed safety record, flexible schedules, impeccably maintained vehicles, and courteous, friendly drivers let you sit back, relax and take in the breathtaking Rocky Mountain scenery. Visit [www.ridecme.com](http://www.ridecme.com) or call (800) 525-6363 for more information.

Gray Line luxury ground transportation service, the Official Ground Transportation Partner of Aspen/Snowmass, is available from Denver International Airport and Eagle Airport to Aspen/



# GENERAL INFORMATION

Snowmass. The year-round operation features scheduled non-stop motor coach service with VIP check-in at Gray Line's concierge facility at DIA, guaranteed window/aisle seating, GPS tracking, on-board entertainment, and customized amenities.

Visit [www.ridegrayline.com](http://www.ridegrayline.com) or call (877) 277-3690 for more information.

## Hotel Information

All programs will take place at the Silvertree Hotel. The deadline to reserve rooms at the discounted rate of \$249.00 (plus 12.8% tax) is **Tuesday, December 28, 2010**. To make your reservation and receive our group rate at the Silvertree Hotel, please call (970) 923-8214 or (800) 525-9402 and refer to the ABA Section of Litigation 2011 Joint CLE Seminar. The Silvertree Hotel is located at 100 Elbert Lane, Snowmass Village, CO 81615. Please be aware that our room block may fill before the deadline.

Individuals with guaranteed reservations must cancel their reservations 21 days prior to the scheduled day of arrival to avoid a two-night cancellation charge.

Additionally, the Winter X Games 14 will be held on Buttermilk Mountain in Aspen January 27–30, 2011, and are free to the public. **We recommend that you make your room reservations early as sleeping rooms will be at a premium.** For more information, please visit <http://espn.go.com/action/xgames/winter/2010/index>.

## Childcare

The focal point of the new Snowmass base village development is the two-story Treehouse Kids' Adventure Center, which offers a family-friendly climbing gym, teen activities, kids' retail, and a host of themed rooms for ages 8 weeks and older. For more details please visit <http://www.aspensnowmass.com/snowmass/treehouse.cfm>. We highly recommend advanced

registration to facilitate your first day experience by visiting <http://www.aspensnowmass.com/store/lessons/default.cfm> or calling toll-free (877) 282-7736 or (970) 923-1227.

## Services for the Disabled

If special arrangements are required for an individual to attend this seminar, please contact Svetlana Kramarova Battaglin at (312) 988-6247.

## MCLE Credit

Accreditation has been requested for this program from every state with mandatory continuing legal education requirements for attorneys. Please be aware that each state has its own rules and regulations, including its definition of CLE. Certificates of Attendance will be available at the conclusion of the program for both attendees and speakers. Please call Svetlana Kramarova Battaglin at (312) 988-6247 two to three weeks prior to the seminar for questions pertaining to the number of credit hours requested.

## Program Materials

Attendees can access program materials online two weeks before the seminar. Section of Litigation Members can continue to access the materials after the seminar at [www.abanet.org/litigation/prog\\_materials/](http://www.abanet.org/litigation/prog_materials/).

## Reach Us through the Web

For information regarding the ABA Section of Litigation Environmental, Mass Torts and Products Liability Litigation Committees and all program updates, please visit the Section of Litigation website at [www.abanet.org/litigation/jointcseminar](http://www.abanet.org/litigation/jointcseminar).

## Activities

There are many winter activities in Snowmass Village. Please check with the concierge at the Silvertree Hotel or visit [www.silvertreehotel.com](http://www.silvertreehotel.com) for more information.

# THANK YOU

A special thank you to **LexisNexis** and **Navigant Consulting, Inc.**  
for their continuing support of the ABA Section of Litigation.

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*The ABA Environmental, Mass Torts and Products Liability Litigation Committees would like to thank the following sponsors for their generous support of the 2011 CLE Seminar:*

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Kasowitz, Benson, Torres & Friedman LLP

Nelson Mullins Riley & Scarborough, LLP

Robinson & Cole LLP

Shook, Hardy & Bacon L.L.P.

Sedgwick, Detert, Moran & Arnold LLP

The Committees would also like to thank Megan Baroni, Karen Crawford, Linda Monica, Catherine Riegle, and Karen Woodward for their hard work in coordinating the panelists, programs and materials. Their efforts and outstanding ABA Section of Litigation staff support, along with the panelists' participation, made this CLE Seminar possible.



# REGISTRATION FORM

# 2011

ABA Section of Litigation

Environmental, Mass Torts and Products Liability Committees' Joint CLE Seminar

JANUARY 27-29, 2011 • The Silvertree Hotel • Snowmass, CO

REGISTRATION DEADLINE: **FRIDAY, JANUARY 14, 2011**

Name \_\_\_\_\_ ABA Membership Id# \_\_\_\_\_  
(As it should appear on badge) (The number is above your name on the mailing label)

Company/Affiliation \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_  
(Providing your email allows you to receive communications and promotions from the ABA and its entities)

Accompanying Spouse/Guest \_\_\_\_\_  
(As it should appear on badge)

Are you a "Young Lawyer" (Age 35 or Younger?)  Y  N Special Dietary Needs \_\_\_\_\_

## REGISTRATION FEES

	Online	Mail/Fax
Section of Litigation Members	\$425	\$475
ABA Members	\$565	\$615
Government/Academic/Public Service	\$275	\$325
Young Lawyers (age 35 or younger or in practice less than 5 years)	\$275	\$325
Non-ABA Members	\$705	\$755
<input type="checkbox"/> I am an ABA Member and would like to join the Section for \$55	\$480	\$530

## TICKETED EVENTS

	Event Fee	Qty.	Total
Thursday, January 27, 2011 Welcome Reception	No charge	_____	\$ \$0
Friday, January 28, 2011 Young Lawyer & In-House Counsel Reception	No charge	_____	\$ \$0
Friday, January 28, 2011 Dinner Event	\$65/adult	_____	\$ _____
	\$35/child (12 & Under)	_____	\$ _____

For information on skiing and non-skiing activities please visit:  
<http://www.abanet.org/litigation/jointcleseminar>

\*These rates are only for Section members who fall into these categories.

**TOTAL ENCLOSED \$ \_\_\_\_\_**

## METHOD OF PAYMENT (Please Check One)

Check enclosed for \$ \_\_\_\_\_ (Payable to American Bar Association, Section of Litigation)

Charge my:  American Express  Visa  MasterCard

Card No. \_\_\_\_\_ Exp. Date \_\_\_\_\_

Cardholder's Signature \_\_\_\_\_

## REGISTRATION OPTIONS\*

**ONLINE** (credit card users only)  
[www.abanet.org/litigation/jointcleseminar](http://www.abanet.org/litigation/jointcleseminar)

**FAX** this form to: (312) 988-6234

**MAIL** this form to:  
Svetlana Kramarova Battaglin  
ABA Section of Litigation  
321 N. Clark Street  
Chicago, IL 60654

\*Registration will not be processed until payment is received.

For more information regarding  
The Section of Litigation, visit our website:  
[www.abanet.org/litigation](http://www.abanet.org/litigation)





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*Environmental, Mass Torts and Products Liability  
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**JANUARY 27-29, 2011**

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2011