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PRESIDENT'S MESSAGE

STEPHEN R. CRISLIP (WV)



Assistant Secretary Lynnette Baldovin, and Peter McLean, our convention planner.

I encourage you to make plans now to attend this Annual Meeting. San Diego is in a lovely part of old California and we will be located right on the coast looking over the Torrey Pines Golf Course where the 2008 U.S. Open will be held. We are minutes away from La Jolla on the coast and its shops and restaurants and from the Del Mar community. The main city of San Diego is approximately 20 minutes away and entertainment abounds for the family. We shall be attending the Top Gun Fighter School, now home to the U.S. Marine Air Station at Miramar, as a part of our meeting and the world famous San Diego Zoo. I encourage you to make plans to be in San Diego April 18-22, 2007. Bring your family.

Our restrictive limitations for our membership have always been our blessing and our curse. We run a lean organization using volunteer time from our member lawyers. While that sounds unlikely to succeed in the modern world, we have succeeded by doing this for 66 years. The Association Press Editor, the ADTA Committees, and the Officers and Executive Council

freely donate valuable legal and personal time to get this done. It is really that culture that makes this organization worthwhile to our members. Our members have stakeholder interests in this association. If you come to a meeting, we know you. You immediately get benefits from attending by the contacts you make.

Along those lines, we are pushing hard to remind our members to refer business to each other. My test for membership in this organization always was: Could I send a good client to her/him and not worry about the work being done well. Use your member directory for information and referrals. It is the best referral network for defense work. Likewise, it is what makes out nominal dues worth the tariff.

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Finally, as we age gracefully as an organization, we are looking for volunteers to help us assemble the History of the ADTA while early members are with us to give that oral history. Also, identify your firm to me if you have been long-standing members. We plan to honor our oldest firm members in April.

Think warm California thoughts for April in San Diego.



SECRETARY'S REPORT

George Walker (AL)

Greetings from the Hilton La Jolla Torrey Pines! I am composing this report from the balcony of my hotel room, looking out across the South Course at Torrey Pines Golf Club (site of the 2008 U.S. Open Championship), at the Pacific Ocean and at several para gliders and hang gliders along the beach cliffs. As I write this, we have just concluded the fall management meeting of the ADTA Executive Council and I am looking forward very much to what promises to be a great experience when we return to this great facility in April of 2007.

As your Secretary, I have spent the six months since the Puerto Rico meeting creating and maintaining the meeting minutes, acting as a liaison between the Membership Chair and the Executive Council for distribution and discussion of new member applications, welcoming new members, and keeping Jennifer Parrish's New Member Committee apprised of such new members. Contrary to popular belief, the position of Secretary is not all glory and glamour.

I have been privileged to attend the last twenty annual meetings of our great organization, and I have been fortunate enough to develop professional and personal friendships that have in many ways changed my life. At every meeting that I have attended, I have met new members and first time attendees and have been able to develop additional great relationships on an annual basis. I do not believe that my experience in this regard has been unique. I hope that each of you has had the same opportunity in the past, or that you will take advantage of future annual meetings to forge such relationships down the road and achieve greater personal and professional fulfillment. Remember the words of that immortal philosopher Charlie Sheen, who has told us that "a good friend will help you move; a great friend will help you move a body." Take advantage of your ADTA membership this year and make some more great friends. I'll see you in San Diego!



ADTA ANNUAL MEETING SAN DIEGO APRIL 18 - 22, 2007 HILTON LA JOLLA TORREY PINES

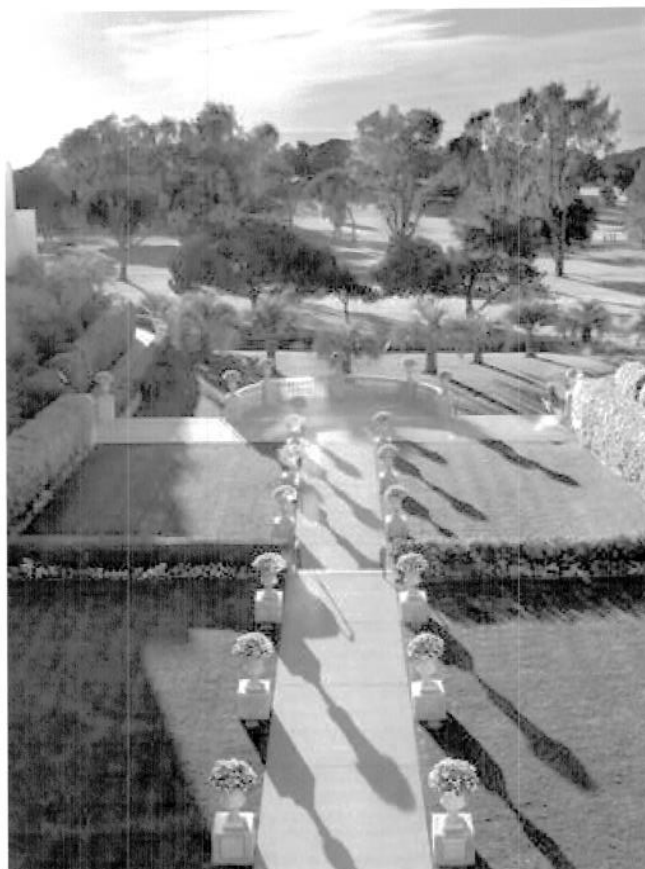
Pam & John Clifford (CA)

Convention Co-Hosts

Terri & Steve Mitchell (CA)

San Diego here we come. The Executive Council and your hosts are preparing a first class meeting to take place at the Hilton La Jolla Torrey Pines in San Diego this April. The Executive Council who recently attended the Fall Board Meeting were very pleased with the hotel and its location overlooking the Torrey Pines Golf Course and the Pacific Ocean. The convention hotel is located between the coastal communities of Del Mar and La Jolla, California, and is an easy 15 mile drive from the San Diego airport.

The Continuing Legal Education Committee has assembled an excellent panel of speakers who will present issues confronted by our members on a day-to-day basis and in the trial of cases from voir dire



through “winning closing arguments.” After you have been enlightened during the Continuing Legal Education sessions, plan on having fun in the sun in San Diego.

On Thursday afternoon, the ADTA Annual Golf Tournament will be held at the Torrey Pines Golf Course located adjacent to the hotel. The Torrey Pines Golf Course is home to the annual PGA Buick Open and the south course has been chosen as the site for the 2008 US Open. For those of you who want to get in some extra golf during the meeting, contact Torin O’Sullivan at the Hilton hotel who can be reached at Torin_O’Sullivan@hilton.com.



On Thursday evening, the ADTA will enjoy “An evening at Miramar.” MCAS Miramar is the site of Charles Lindbergh’s flight tests with the Spirit of St. Louis and is a working base operated by the Marines. The base obtained popular fame in the movie “Top Gun” and you will be able to spend time in the bar made famous by Tom Cruise and Kelly McGillis. Once we clear the security check point, you will be joined by our “hosts” for the evening which are Marine Corps officers who will thrill you with their stories of events from around the world. Our hosts will bring us to a

flight line presentation at a working hangar where you will get a close up view of the jets currently being used by the Marines. After the flight line presentation, we will proceed to the MCAS Miramar officers club for some R&R including cocktails, dinner and dancing.

On Friday after the CLE session, we have arranged for the Tennis Tournament to be held at the Rancho Valencia Resort & Spa located in Rancho Santa Fe, California. Rancho Valencia has been voted as one of the top ten best tennis resorts in the United States by Tennis Magazine. We expect everyone to let his or her competitive nature show on the court.

Friday evening we will enjoy a cocktail reception at the San Diego Zoo located in beautiful Balboa Park. The World Famous San Diego Zoo was founded in 1916 and encompasses over 100 acres and more than 4000 animals. A few steps in any direction from the outdoor Sydney’s Grill you will find many of these animals and you will also experience an up close encounter with exotic animals and have a chance to chat with the trainers.



After the cocktail reception at the Zoo, busses will provide transportation to the San Diego Gaslamp District for a dine on your own evening with your friends in the ADTA. The Gaslamp District located adjacent to downtown San Diego encompasses 16 square blocks of restaurants and bars.

San Diego offers many other activities and several enjoyable optional events have been arranged for you to share with your friends in the ADTA. Optional events include a San Diego Land and Sea tour where you

have an opportunity to explore San Diego by coach and yacht. In addition to viewing historic locations in San Diego, which is considered to be the birthplace of California, you will cruise the waters of San Diego Bay. Another option is to view the San Diego Maritime Museum and the USS Midway. The USS Midway was relocated to San Diego in 2004. In addition to exploring the aircraft carrier, you will have the opportunity to view 21 restored planes. This tour also includes other ships including the Star of India, which is an old clipper ship built in 1863.



No trip to Southern California is complete without a surfing safari. On Saturday you have the opportunity to learn how to surf!!! Your surf instructors will provide everything you need from surfboards to wet suits and we encourage everyone to participate. The surfing contest will be held at Del Mar beach just minutes from the hotel.



San Diego will be an excellent opportunity for the kids. Other sites to visit during your stay include Balboa Park which is home to 11 museums including the Aerospace Museum and the San Diego Museum of Art, Sea World, Lego Land, and the San Diego Wild Animal Park. All of these locations are within minutes of the hotel.

Most importantly, the ADTA annual meeting provides you with the opportunity to renew old friendships and make new friends amongst your fellow ADTA members.

Reservations are ahead of schedule - so be certain to register early before our rooms at the Hilton Torrey Pines are gone.

We look forward to seeing you in San Diego in the spring.



SAN DIEGO CLE

Steve Mitchell (CA)

The goal of this year's CLE committee, consisting of Frankie Colon-Pagan, Barry Beck and Steve Mitchell, was to line up speakers who will be captivating enough to keep everyone's attention as they look out from the Pavilion where our sessions will take place onto the 18th fairway of the Torrey Pines Golf Course and beyond to the Pacific Ocean. We literally canvassed the entire nation to find speakers to fit the bill, and believe we have assembled a cast of characters from all corners of the country who will not only provide practical and meaningful legal education, and 6 hours of CLE credit to boot, but will do so in an entertaining and enlightening way. We have a New Englander, a Texan, a Mid-Westerner, a couple of Southerners, and a Californian ready to start your day and inspire your practice. These speakers have been involved in some of the most prominent litigation and trials of our day, and we guarantee that you will come away having been inspired, and having learned practical tools of our trade.

This year's speakers are as follows:

Scott Saylor, *Shook Hardy & Bacon, Kansas City, MO* - "The Keys to Successfully Handling Mass Tort Litigation"

Stephen G. Morrison, *Nelson, Mullins, Riley & Scarborough, Columbia, SC* - "Winning Closing Arguments"

Max Wright, *Wright and Jackson, Midland, Texas* - "Dealing with Sympathy on Voir Dire"

Tom Hurney, Jackson, Kelly, Charleston, West Virginia - "Judicial Disqualification and Other Impossible Positions for Defense Lawyers."

Mike Aylward, Morrison Mahoney, Boston MA, "Key Coverage Issues and Traps"

State Senator Joe Dunn, Santa Ana, California - "The Interaction between Litigators, Lobbyists and Legislators: How Laws are Created and Changed both Inside the Courtroom and Elsewhere".

Scott Saylor has litigated several hundred individual and class action drug and device products liability cases, and is at the forefront of some of the most significant pharmaceutical cases actively under way. Steve Morrison can tell us all about the challenges of defending Walmart while on Court TV. Max Wright will bring his Texan perspective to picking defense jurors in sympathetic settings. Tom Hurney may not only enlighten us on what Steve Crislip *truly* does all day, but as someone who has defended doctors, hospital and other health care providers throughout West Virginia, he knows the tricks of the trade. Mike Aylward, a prolific writer and lecturer on insurance coverage, has analyzed just about every coverage angle from mass torts and environmental liability exposures to coverage claims involving antitrust actions, and will address the key coverage issues of the day which permeate so many of our cases, including additional insured issues. Finally, Joe Dunn, known as "The Man who Cracked Enron" during his legislative investigation into the energy crises, had a thriving practice handling consumer class action matters before entering the political world. He has recently been named as CEO of the California Medical Association. With his background, he has a unique perspective on how laws which affect our practice get created and changed as a result of things that happen both inside the courtroom, and behind closed doors.

As many distractions as there will be at Torrey Pines, and no matter how late you stay at the Hospitality suite the night before, you can be sure that your mornings in San Diego will be both educational and entertaining.



ADTA SERVICE AWARD

Submit any nominations to Lynnette Baldwin. This award in memory of former President Bill Birmingham (1992-93) may be conferred to an ADTA member for extraordinary service to their community, state, province or country beyond the ordinary practice of law.



MEMBERSHIP REPORT

Glenn S. Morgan (VT)

The Cliffords and the Mitchells have a great meeting planned for April 18-22, 2007 in San Diego California. I can report from personal experience it is truly a great location. I hope to see and meet many of the new members who have joined our ranks since our 2006 meeting in Puerto Rico. The golf courses are great and the town is spectacular with breath taking views. For my colleagues in the Northeast, the trip is a breeze to sunny California.

As of January 31, 2006, I expect we will lose about 20 to 30 members to retirement, resignation or unpaid dues. I am contacting the regional and state chairs requesting their assistance to fill those vacancies. However, we need each and every member to join in recruiting ADTA prospects. Please contact your state or regional chairs with the names of lawyers who you want to share the ADTA experience.

We have added several new members as a result of our membership drive that is now over. However, there are several states and provinces where no new members were added. Consequently, we will be looking to add new members in those states and provinces in the coming months. If any member has someone in mind they would like to recommend please contact me directly or your State, Province or Regional chair.

Adding an associate member is an easy way to increase our membership. If you do not already have an associate member in your firm please consider adding one. Thank you for the leads from our survey and I will be following up with those folks. Hope to see you in San Diego.

VOLUNTEER SOUGHT TO COMPILE ADTA HISTORY CONTACT CRISLIP REWARD INVOLVED

Submit the name of the longest continuous ADTA member firm to Crislip by *April 1st*



“METADATA,” ELECTRONIC DISCOVERY AND OTHER RELIGIOUS TIDBITS.

It was only recently that I heard the term “metadata.” Thinking it was a new religion – most likely formed in California – I gave it little attention. Lo and behold, the Church of the ABA in its new formal ethics opinion (Formal Opinion 06-442) makes clear that we should all pay more attention and learn about metadata and the potential pitfalls for each of us.

No matter your feelings on the issue, we regularly receive e-mails (often with attachments) from witnesses, clients, and opposing lawyers. These electronic documents are “embedded” with information and are what is referred to as “metadata.” If you are either an expert yourself or utilize someone else’s expertise, it is relatively easy to determine the historical information about the electronic documents you receive. For example, the last date and time it was revised, who it was last accessed by, from whose computer it was generated, the identity of the last person who saved the document, the most recent revisions to the document (including “redlining” changes), and other comments that someone else may have electronically imposed upon a prior version of the document is often accessible.

One might like to know how the last settlement offer was changed, how the last contract was revised, and other thought processes of the opposition. Some state bar associations, such as New York and Florida, have ruled it improper for a lawyer to use the metadata from an opposing lawyer’s document. However, the ABA does not share this view. It merely relies upon Rule 4.4(b), which relates to the lawyer’s receipt of inadvertently sent information, but is silent as to the propriety of a lawyer’s review of the information. The opinion does not address whether or not receipt of the metadata is something the receiving lawyer should know or reasonably should know was inadvertent, and thereby provide notice of its receipt to the sender. The Ethics Committee merely points to Rule 4.4(b) stating the sole requirement is to provide notice to the sender of the receipt of the inadvertently sent information. The opinion goes on to discuss a number of ways in which one can eliminate the metadata from documents that are sent and offer other solutions such as negotiating a confidentiality agreement with the opposition to allow a “pullback” provision.

Essentially, the opinion is silent on whether one can use the information that you obtain by way of metadata. The decision by the receiving lawyer will often be to notify the sender and then return the information. However, there is no guarantee that this will happen in your case. It is incumbent upon us that we know what information is contained within the documents that we send. Often times, the information in the metadata is useless information; however, many times it is not. Software does exist to “scrub” documents, and many of us have computer experts who can assist us in dealing with the metadata issue. While metadata is not a new religion, the reaction of “Oh, my gawd!!!” may be heard when one realizes what has just been sent to the opposition.

OTHER HIGHLIGHTS:

In January 2006 the U.S. Food and Drug Administration unveiled major revisions to prescription drug labeling regulations. Included within the restrictions was the “preemption preamble” which preempts state product liability claims against drug manufacturers, including claims that a manufacturer failed to warn against contraindications that are not supported by evidence that meets certain FDA standards. You should review these provisions if you are in the drug litigation arena.

Electronic discovery is HOT! Though an entire law review article can be easily written on the electronic discovery issues that we are about to face, it is safe to say that all of us must have a procedure to *preserve* potentially discoverable information. The issue of preservation is different than the issue of production. Working on and helping implement client policies – with them directly or through their in-house counsel – to preserve information will best prepare us for the fight that will surely come in discovery.

The attorney/client privilege is still a topic that requires monitoring. Our own John Clifford has written extensively on the issue and there is still significant concern that the attorney/client privilege has been significantly eroded over the last few years. Recent efforts of defense lawyers have brought significant attention upon the issue as it relates to defendants and the Government’s attempts to have clients waive the attorney/client privilege in return for “leniency.” Such a waiver will more often than not affect not only the criminal or regulatory investigations, but the subsequent civil litigation as well. Stay aware.



ADTA INTERVIEW

Pat Cullen (MD)

BILL POWELL

Bill Powell, of Charleston, West Virginia, has earned his litigator wings under the tutelage of current ADTA President, Steve Crislip. Bill, who grew up in New York City, attended Salem College in West Virginia and attended law school at West Virginia University. He has been married for twenty years to Sharon. Their three boys are very active, and into sports in a big way. All the boys play in-line hockey and Bill coaches.

Bill has been with Jackson Kelly since 1985, except for a three-year hiatus during which he served as an Assistant U.S. Attorney in Charleston. After that stint prosecuting criminal cases, he returned to his career as a civil litigator on the defense side.

Perhaps as some indicator of the variety of cases he defends, Bill advises his office is officially known as "The Kennel" on account of the dogs that take up residence there. One such dog was a personal injury case filed against a local power company. The plaintiff had climbed a transmission tower to get a better view. When he touched a power line, the many volts of electricity went from his hand through his body and exited the only metal upon him – the zipper on his pants – damaging everything in its path. Consequently, plaintiff's claim included a very unusual loss of consortium claim. Bill thought the trial went very well until the jury requested a calculator with a nine digit screen and brought back over a \$1,000,000.00 verdict. The West Virginia Supreme Court, based on the reported stellar brief prepared by fellow ADTA member, Thomas J. Hurney, Jr., issued what could be called a seminal trespass opinion, and directed the reversal of the trial court's decision. Such an opinion by a West Virginia Supreme Court is unusual, as the entire state has regularly been recognized as a "judicial hell-hole" by the U.S. Chamber of Commerce.

An example of the interest West Virginia's courts have in keeping defense lawyers fully occupied is the recognized and ever expanding rights of plaintiffs to sue their employers above and beyond any workers' compensation claims, so as to ensure that plaintiffs receive a "full recovery" for the wrongs of their em-

ployer. Such positions ensure much future work for Bill and his partners.

Bill and his wife, Sharon, have been coming to ADTA meetings for eight years and have only missed one. They look forward to seeing their many friends in San Diego.

PHYLLIS HIX

Phyllis Hix, of Kernville, California, is now a sole practitioner "up in the mountains" after spending twenty-eight years as a litigator in Los Angeles. The differences in her practice and her life style are more different than black and white. Her main insurance focus is now reinsurance and coverage questions. As often as not, her opponents are other defense counsel. In her realm, she confronts discovery issues wherein the opponents seek to obtain underwriting files, claims files and reserve information. "Bad faith" also is a mantra of her opposition as that concept expands in California.

Phyllis is the single parent of two adopted children who both now are on their own. Her son, a classical pianist and rock musician, lives in Atlanta, Georgia, and her daughter works in sales in Las Vegas, Nevada. Phyllis herself is heavily into music. She plays keyboard with a college band at the Cerro Coso Community College, piano with a jazz group and sings with her church choir and madrigal choir.

For a time Phyllis pursued a medical career. She attended pre-medical school for one year, then became, and is an Occupational Therapist, certified, registered and licensed. She focuses on pediatric neurology, including autism. Her patients display the common development disorders of autistic children: problems with social interaction, communication and repetitive or obsessive behavior.

From her lofty mountain perch in a rural town of 2,500 good folks, Phyllis now does her work three hours by car and a world away from Los Angeles. The nearest courts are even a one and one-half hour drive from home. About what is new in her home State Phyllis points to (a) politics (a perpetually new phenomenon) and (b) the plan for the State to register partners as a replacement for marriage registrations.



ABOUT OUR MEMBERS

At its Annual Meeting in San Francisco, DRI bestowed the Fred H. Sievert Award on **David E. Chamberlain** (TX), the Immediate Past President of the Texas Association of Defense Counsel. The Sievert Award is bestowed annually by DRI to The Outstanding Defense Bar Leader in the nation. Chamberlain is the current Texas State Representative to DRI. He was also recently named a 2006 Texas Super Lawyer by Texas Monthly Magazine.

Governor Jeb Bush has just appointed **Gerald W. (Jerry) Weedon** (FL) to the Board of Trustees of the Florida School for the Deaf and Blind.

Over the past year, **George Walker** (AL) served as Chair of the Presidential Search Committee for the University of Montevallo, his alma mater. He has also served as Chair of the University's Board of Trustees since February, 2006.

Jennifer Parish (VA) was elected as Secretary of the Litigation Section of the Virginia State Bar.

On November 9, 2006 the partners at Burroughs, Hepler, Broom, McDonald, Hebrank and True announced that the new name of the firm will be Hepler, Broom, MacDonald, Hebrank, and Noce, LLP, but will go by the shortened name of Hepler Broom. The law firm has offices in Edwardsville, Madison County, Illinois and St Louis, Missouri. **Gordon Broom** (IL) and **Jeff Hebrank** (IL) are principals in the firm.

Jim and Peggy Greene (DC) are both enjoying retirement. Jim retired in 2004. Peggy wound up thirty years as a lawyer with the Federal Communications Commission in June of 2005. They are planning to remain in the District of Columbia where they have lived for 25 years.

Ray Brown (MS) writes that his offices in Pascagoula and Biloxi are back and they are hard at work. He received the Mississippi Bar's 2006 Lifetime Achievement Award in July, 2006 and was inducted into the Mississippi Sports Hall of Fame in August. Ray presently serves as Regent in the American College of Trial Lawyers, representing the Fellows of Arkansas, Louisiana, Mississippi, and Texas on the national board.

James D. Harris, Jr. (KY) was elected to the Board of Governors for the Kentucky Bar Association for a two year term.



ADTA MEMBERSHIP SURVEY

Kevin J. Kelly (NY)

The ADTA recently conducted a survey of its membership to assist the Executive Council and officers in evaluating the needs of the members. Thanks to all of you who responded. We received a total of 172 responses (162 electronic and 10 hard copy). We examined all of the responses and the comments of the members in order to gauge member interest in future meeting sites, find out which activities at the meetings were important to members, and to solicit comments on how the ADTA can assist members in their various practices.

Below are a few of the questions and responses on these issues from members responding electronically:

1. On a scale of 1-5, please indicate your interest in attending a meeting in a major city in the Northeast (e.g., Boston, New York or Philadelphia)?

Very Interested	31%
Interested	36%
Somewhat Interested	19%
Not That Interested	10%
Not Interested at All	5%

2. If you have attended an ADTA Annual Meeting, please rate the importance of the following factors that influenced your decision to go.

Group Attributes

Most Important	58%
Important	24%
Somewhat Important	13%
Not that Important	3%
Not Important	1%

Site Location

Most Important	16%
Important	58%
Somewhat Important	23%
Not that Important	3%
Not Important	0%

Price	
Most Important.....	3%
Important.....	40%
Somewhat Important.....	41%
Not that Important.....	13%
Not Important.....	2%
CLE	
Most Important.....	3%
Important.....	38%
Somewhat Important.....	39%
Not that Important.....	14%
Not Important.....	5%
Business Connections	
Most Important.....	16%
Important.....	31%
Somewhat Important.....	23%
Not that Important.....	25%
Not Important.....	5%

3. What do you think about the ADTA having an annual meeting in Hawaii?

I'm there!	17.1%
In all Likelihood, I'll go.	24.1%
If the price is right, strongly consider going.....	34.8%
I don't think so.	19%
No way!	5.1%

The responses about Hawaii as a future annual meeting location were somewhat supportive of the idea, dependent on several factors such as cost and travel time. However, we did not think the responses clearly indicate a mandate to go forward with that project. The questions were not specific enough for us to finalize an evaluation. After the meeting in San Diego, we will do another survey with more specific information as to expected costs of such a meeting.

Looking at the survey responses and comments in their entirety, there appears to be significant support for the Boston, Massachusetts site. The committee is now actively investigating Boston as a site for a future annual meeting.

Overall, the member responses and comments indicate that we like our fellow members. I quote from one of the responses:

"The ADTA members are great: they are the best, the brightest and most interesting (present company excepted, of course)".

Members are generally pleased with ADTA site locations and the CLE program. One complaint from the members is the failure to provide marketing opportunities for the individual members and their firms. Our president, Steve Crislip, is putting together a new Marketing Committee to address this issue. While there have been marketing initiatives in the past, it appears that the time is ripe for a dynamic and comprehensive approach.

The survey responses were enlightening, particularly the comments section of the survey. We thought it a great way for the Executive Council and officers to hear from the members and we hope to use this device in the future.

One final thought from a new member which seems to be the general sentiment among the officers and Executive Council:

"I attended as an officer of IADC. I became a member in the past year. Hope to attend future meetings as a regular member. Would like to spend time with someone other than **Gordy Broom**".

By the way, Gordy and Holly "Hole in One" Broom are doing fine. He personally thanked me for not asking any survey questions about the Bob Newhart thing, although he did ask to poll the members about getting Mel Torme as our next "special" person.



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A WORD FROM LOU

Lou Scofield (TX)

Because of our lofty positions as big shot trial lawyers, we are often called upon to speak at conferences, law schools and various “continuing education” events. Unfortunately, many of you are not nearly as good at this as are others in our membership. The reason has nothing to do with intellect, courtroom skills, or physical appearance. It has to do with a bad upbringing...a/k/a lack of training.

Of course I would not presume to lecture those of you whose conference speaker skills are legendary, but for those of you who stink at it, it might do you some good to read on. What follows is essentially a primer on the fundamentals of a good conference talk.

In general, you should first identify your audience. Trust me, the *Beaumont Garden Club Men’s Auxiliary* will not be receptive to the same subject matter and style as *The Texas Association of Defense Counsel*, regardless of what you think of Texas lawyers. The education and bias of the audience will dictate many of the elements of your talk.

Having identified the audience you should next pick a topic. You may have had the experience of someone (usually a busybody “conference chairman”) suggesting a topic. Don’t agree to it. For one thing you’ll have to learn all the law about the topic, and, if it is new to you, learning it will be harder than you think. Instead, insist on a topic you feel comfortable with, preferably one you have already spoken on at least a couple of times in the past. This way you don’t have to learn as much, and you can claim you’re developing an expertise on that narrow corner of the law. You’ll be spoken of at cocktail parties: “Did you hear Crislip’s talk on *Property Rights To Ten Inch Color Variegated Coal Seams*? No one knows his stuff like Crislip!”

Yes, insist on your own topic, and do it with a pompous air by suggesting to the “chairman” how well received your talk was at the Forbes Corporate President’s Society. Don’t feel guilty about this slight prevarication. After all, you’re not getting paid.

Now that you have sized up your audience and grabbed a topic you know something about, let’s get down to the details of the talk. Start by thanking your host and audience. The audience knows you don’t care, but it’s the starting point they expect, and with bad coffee and polypropylene eggs in their gut, they aren’t interested in this rule being changed. And by the way, when expressing your gratitude don’t tell some stupid story about what you and the “chairman” did at dinner the night before. Unless it involved you getting arrested and being given a sponge bath by the Neanderthal who shared your cell, the audience doesn’t care about you or the egotistical “conference chairman,” much less your dinner.

Next, tell a joke...a joke appropriate to the audience (see above). For instance, at your next talk in Dubai, don’t do a power point joke with a picture of Muhammed. Even if you claim it’s not him, but rather his twin brother, Chumley, any Islamo-facists in the crowd may be offended. And even though by reputation such folks are slow to anger, there is nothing more embarrassing than having your best talk on the Rule Against Perpetuities interrupted by gunfire. You’re better off using a different joke.

Don’t tell any joke about your spouse, your law firm, or your dog. Word will get back to them. And don’t tell the *Pancho Villa* joke.

Old quips, sayings, and “one liners” will do just fine. Here’s a few I’ve recently stolen that you are free to use:

Why don’t blind people like to skydive? Because it scares the dog.

Never eat more than you can lift. *Miss Piggy*

Where do you find a dog with no legs? Right where you left him.

Sometimes when reading Goethe I have a paralyzing suspicion that he is trying to be funny. *Davenport* — Too cerebral? Try this one:

If it weren’t for pickpockets I’d have no sex life at all. *Rodney Dangerfield*

Having started with your joke, don’t stand there looking pleased with yourself, move right in to the body of your talk. Begin with “signposting”.

Signposting is the act of telling your audience, in advance, what outline your talk will follow. In this way they will know when the end approaches and can program themselves when to awaken and politely applaud. As you progress into the meat of your talk, be sure to sprinkle in examples. I love examples. We all love examples. They are like the captioned pictures in your high school history book; they require less effort than the text. However, avoid examples that are not politically correct. Don't use as an example the disabled, Republicans, Democrats, or any person of any gender, sexual preference or race, unless, of course it is yourself, and you're being self-deprecating.

Don't forget "The Rule of Five." This rule says that, regardless of the subject, the audience won't work with you beyond five major points. You know this rule from your jury trials. It applies to your conference talks too.

If your talk is in the form of a "panel discussion" I recommend you don't participate. Just sit there quietly. If you must participate, always talk last, and sim-

ply add to what has already been said by agreeing with the panel member who got the most applause. Just say: "I agree with Frank's point, but for different reasons." And leave it at that. Don't give any reasons. Everyone will think you are really smart...especially Frank.

Finally, its time to conclude. Regardless of how much time is left, regardless of how smart you think you are, never, ever, open the floor to questions. If you do there will always be some jerk who was listening carefully, now asking you, *in front of everybody*, how you can possibly justify some conclusion you reached. You're the speaker, you owe no explanations. Perhaps you will finish with another joke or a quip. Then get very sincere. Let the audience know how much you enjoyed yourself, and earnestly thank them for their kind attention. Remember, through it all, honesty and integrity are your most important allies. Once you learn to fake those, you'll succeed at anything (apologies to George Burns).

MEMBERSHIP NOMINATION

I would like to nominate _____ for (prime)(associate) membership in
(proposed members' name)

the ADTA. Please send an application to _____
(name)

at _____, _____, _____
(city) (state) (zip)

Office telephone: _____ Office fax: _____

Year admitted to practice in my state: _____

Name of Member (Print) Signature of Member

Return to:
Glenn S. Morgan, Ryan, Smith & Carbine; Mead Building, 98 Merchants Row, P.O. Box 310, Rutland, VT 05702
Tel.: (802) 786-1045; Fax: (802) 748-8502; Email: gsm@rsclaw.com

Membership Requirements
A trial lawyer doing principally defense work in insurance and self-insurance activities, with more than five (5) years defense trial experience is eligible.
Prime Members: The first lawyer member from a firm is the prime member. There can only be one Prime Member from any town, city, or metropolitan area of less than a million population. One additional Prime Member is allowed for each additional one million population, or portion thereof, for a city or metropolitan area.
Associate Member: Partners or associates of a Prime Member are eligible and encouraged for membership as Associate Members, at the will of the Prime Member.



NEW MEMBERS

Jack H. Hieb - Aberdeen, SD
Bruce Churchill-Smith Q.C. - Calgary, AB
Gregory T. Miller - Buffalo, NY
Darrell L. Barger - Corpus Christi, TX
F. Jason Goodnight - Tulsa, OK
James A. Pelish - Rice Lake, WI
James C. Simmons - Sudbury, ON
Julia Chico Abbitt - Morgantown, WV
G. Mason White - Savannah, GA
David M. Kersey - Bluefield, WV
Theodore V. Lyons Jr. - Janesville, WI
Jimmy E. White - Anchorage, AK
William A. Hicks - Abilene, TX
Robert H. Hood, Jr. - Charleston, SC
Joseph V. Macha - Los Angeles, CA
John R. Singleton, Q.C. - Vancouver, BC
Paul E. Kremser, Jr. - Santa Barbara, CA
W. Carl Mendenhall - Missoula, MT
John R. Richardson - Bradenton, FL



ADDITUR

Gordon and Holly Broom are still celebrating the birth of their third grandchild, Clair Katherine Broom born on July 8, 2006. She is the daughter of Ben and Amy Broom of Indianapolis, Indiana

Dru and Bill Sampson announce the birth of their grandson, Emeth Daniel Toeppen. His father, Seth, is Dru's younger son. Emeth and his parents, Seth and Joy, live in Lawrence.

THE ASSOCIATION PRESS

ATTN: MATT BAILEY

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