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John S. Guttman's From the Chair Note
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It goes without saying that 2017 may be a year of great change in the areas of toxic tort and environmental law. EPA and the Department of the Interior are restructuring how they address scientific issues. Regulation and enforcement may shift further to the states. The plaintiffs' environmental and toxic tort bar will likely step into the vacuum and try to shape things to their liking through litigation.

The members of DRI's Toxic Tort and Environmental Law Committee will be at the forefront of the defense of our clients' interests through all of these unpredictable changes. It is my pleasure and privilege to serve as Chair of the Committee this year. Carmen Toledo is Vice Chair. To those who are not members of the TTEL committee, we invite you to join us or to recommend TTEL to colleagues who practice in the area be they in law firms or in corporate legal departments.

The committee is off to a great start this year. Under the leadership of Carmen Toledo and Stephanie Flynn, we had a superb seminar in New Orleans in March. We extend the Committee's thanks to all of the sponsors of this year's conference and all of the presenters. Attendance was up. Feedback has been consistently positive about both the content and the enhanced networking opportunities that were included this year. We have already begun developing the program for our next conference, which will be held on March 1 and 2, 2018 in Nashville. Bill Hubbard is the new Program Chair and Kristin Orr is Vice Chair. They join me in welcoming the participation in our planning committee of all who are interested. One consistent comment from attendees this year was that they appreciated that the program was tied together by an underlying theme - how to persuade judges and jurors on issues related to science. Next year is the 25th anniversary of the Supreme Court's *Daubert* decision so look for content that picks up on that occasion. We also expect to continue our tradition of hosting a diversity luncheon with a speaker from industry. Networking opportunities will abound as well. For the first time this year, we had a speed networking event and a bowling outing. Next year, look for something that takes advantage of our host city, which is one of the music capitals of America. We welcome all ideas as to topics and speakers for panels and individual presentations be they suitable for full length segments or for TED Talk type presentations.

Publications are a strength of our Committee and there are multiple opportunities available. Besides this issue of For The Defense, to which I will turn momentarily, we have an excellent electronic newsletter. Devin Barry is the committee's publications chair. Please feel free to contact him if you have an idea for an article to publish in the electronic newsletter or in our 2018 issue of For The Defense. It is not too early to be thinking about that opportunity.

Turning to this issue of For The Defense, our Committee is pleased to offer the membership of DRI five timely and thoughtful articles that we hope will be of broad interest.

David Lutz and Whitney Cruz have authored an interesting and provocative piece on what is next in the never ending story of asbestos litigation. They posit that as mesothelioma cases decline they will be replaced by cases in which plaintiffs allege that exposure to asbestos caused lung cancer. The authors argue persuasively that there will be more asbestos cases than the mesothelioma cases we typically see today, including cases alleging synergistic effects of exposure to different substances. The latter approach will tie such litigation into an important more general trend in chemical exposure cases.

Sara Beth Jones, Mary Margaret Gay, Anna Beth Baker and Joanna Kuhn have jointly authored an excellent article for this issue on an important practical topic – deposition strategies for developing alternative exposure scenarios in asbestos cases. They offer information on useful tools for developing information on alternative additional exposures in specific cases. Their lessons are relevant to both mesothelioma cases and the cancer cases about which David Lutz and Whitney Cruz have written. In fact, the insights in this article have a broader applicability to toxic exposure cases in general.

Moving beyond asbestos, Eric Klein and Graham Zorn have contributed a useful piece on a particular line of mega cases – environmental and toxic exposure cases brought by sovereigns. In recent years, multiple states have filed massive suits against petroleum refiners alleging pervasive contamination of their waters with the MTBE, which was used for many years as a gasoline blending component. Those states seek recovery for the costs of testing and treating wells, both public and private, as well as natural resource damages. They sometimes seek restoration of water resources down to non-detect rather than limiting their claims to remediation down to applicable regulatory standards. The idea is that a single molecule constitutes an injury to the resource. Eric and Graham argue that states will begin to apply these legal theories to high stakes cases involving other contaminants.

The article by Timothy Karns addresses another type of case that is both important and current – litigation alleging exposure to lead via drinking water. These are high stakes cases because many of the plaintiffs are children. Tim discusses Flint, which is the highest profile example. Before Flint, there was Washington, DC. Since Flint became prominent, water lead cases have been filed in a number of other jurisdictions. Tim's article provides an excellent overview of where the lead in drinking water comes from and the regulatory framework that must be understood to successfully defend these cases. His insights also have relevance to cases involving other contaminants in drinking water.

TTEL's final article in this issue of For The Defense was authored by Gary Burt, Adam Mordecai and Brendan O'Brien. They address a provocative topic – dealing with cross-cultural issues when conducting neuropsychological assessments for forensic purposes. Given the ever increasing diversity in American society, this topic is extremely important for all who practice in areas where neuropsychological issues play a role. The authors argue persuasively that differences in language, culture and custom can interfere with such assessments and render the results unreliable. The article raises important questions about whether neuropsychological assessments should be inadmissible under Daubert in certain circumstances.

In closing, I would like to note other initiatives that the TTEL Committee will be pursuing this year. In response to requests for greater networking opportunities, we will be initiating a series of regional networking events. The first will be in Washington, DC. Other events will follow later this year. We expect to continue with multiple regional events in 2018. TTEL members will be receiving invitations to events in their regions as they are scheduled.

Finally, under the leadership of Kim Bick, we have already had one successful webinar this year. The topic was a review of the environmental law after the first 100 days of the Trump Administration. Keep an eye out for announcements of several additional webinars later in 2017.

We hope to see all of you at the DRI Annual Meeting, which will be in Chicago on October 4-8, 2017 and at the next TTEL Seminar on March 1-2, 2018 in Nashville.