

Lawyers for Civil Justice

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*A National Coalition of
Corporate Counsel and Defense Bar Leaders
Supporting Civil Justice Reform*



2009-2010 LCJ Board of Directors

LCJ hosts two national conferences annually, which address a wide range of civil justice reform topics and feature a number of distinguished guest speakers.



Recent Speakers Include

The Honorable Paul J. McNulty
U.S. Deputy Attorney General

The Honorable Robert C. "Bobby" Scott
U.S. Representative from Virginia

Congressman F. James Sensenbrenner, Jr.
Chairman, House Judiciary Committee

The Honorable Janis Graham Jack
*U.S. District Judge
Southern District of Texas*

The Honorable Randall T. Shepard
Indiana Supreme Court Chief Justice

The Honorable Thurbert E. Baker
*Georgia Attorney General
President, National Association
of Attorneys General*

The Honorable Theodore B. Olson
Former U.S. Solicitor General

The Honorable Lindsey O. Graham
U.S. Senator from South Carolina

The Honorable Ray LaHood
U.S. Secretary of Transportation

The Honorable Orrin Hatch
U.S. Senator from Utah

Mr. Paul Cappuccio
Chief Legal Officer, Time Warner

The Honorable Lee H. Rosenthal
*Chair, Judicial Conference Standing
Committee on Rules of Practice
and Procedure*

The Honorable Paul Niemeyer
*Chairman, Federal Judicial Conference
Advisory Committee on Civil Rules*

The Honorable Nathan L. Hecht
Texas Supreme Court Justice

The Honorable Peter Verniero
*Former New Jersey Supreme Court
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LCJ's Upcoming National Conferences:

December 3rd-4th, 2009
New York City

May 3rd-4th, 2010
Washington, DC

LCJ Mission Statement

Lawyers for Civil Justice is a national coalition of defense trial lawyer organizations and corporations which seeks to restore and maintain balance in the civil justice system for the benefit of the public.

LCJ's long range goals include:

- ♦ Reducing costs of litigation
- ♦ Ensuring more predictability in damage awards
- ♦ Reducing costs and burdens associated with discovery
- ♦ Ensuring balance and fairness in America's civil justice system

The purpose of LCJ is to accomplish civil justice reform through:

- ♦ Coalitions among defense trial lawyer associations and corporate interests;
- ♦ Participation in the legislative process in a way that persuasively presents the defense perspective;
- ♦ Anticipating, tracking and addressing proposals which affect the civil justice system.

Membership

The LCJ Network consists of major corporations, the leadership of the DRI, Federation of Defense & Corporate Counsel, the International Association of Defense Counsel, collectively representing over 20,000 members of the organized defense bar, and 65 defense trial law firm Associate Members.

2009 Corporate Members and Contributors include:

Dow Corning Corporation
Eli Lilly
Emerson Electric Company
Entergy Mississippi Inc.
Exxon Mobil Corporation
Federal Express Corporation
General Electric Company
GlaxoSmithKline
H5 Technologies
Johnson & Johnson
Koch Industries, Inc.
Liberty Mutual Insurance Company
Microsoft Corporation
Norfolk Southern Corporation
Nova Nordisk
Pepsico
Pfizer Inc
Schering-Plough Corporation
Shell Oil Company
State Farm Mutual Automobile Insurance Companies
Wyeth

Defense Bar Associations

*DRI – The Voice of the Defense Bar
Federation of Defense & Corporate Counsel
International Association of Defense Counsel*

Attorney-Client Privilege:

LCJ supports passage of the Attorney Client Privilege Protection Act of 2009, S.445. LCJ is working with the U.S. Chamber led Attorney-Client Privilege Protection Coalition to pass this legislation in Congress. In the last Congress, the House version of this bill, (HR 3013), was passed on voice vote by the House, but S 186 was not reported out by Senate Judiciary. The Act prohibits government prosecutors from requesting waivers of attorney-client privilege or work product protection as well as the consideration of “refusal to waive” as an element of the “charging” decision. Supporting legislation designed to address the chronic “culture of waiver” of the attorney-client privilege is still necessary notwithstanding the McNulty Memo (which was released by then former Attorney General Paul McNulty at the December, 2006 LCJ Meeting) and subsequent revisions to the DOJ and SEC Enforcement Manuals. The Coalition is also engaged in persuading DOJ and the Administration to issue an Executive Order strengthening the protections in the DOJ and SEC Manuals and extending the protections to all agencies.

LCJ is working closely with the U.S. Chamber of Commerce, the ABA Task Force on the Attorney-Client Privilege, and others to ensure that a more favorable policy is adopted in the U.S. Department of Justice, and that the attorney client privilege is preserved.

Expert Evidence:

Promoting legislation and procedural rules designed to curb “junk science” remains a primary LCJ objective. After conducting a nationwide poll of defense counsel to determine appropriate rule making opportunities, LCJ established action teams in key states to support improved expert testimony rule reform, and provided teams with draft model legislation, position papers, and other resources needed to effectuate change. In 2006, LCJ featured at its Conference U.S. District Judge Janis Jack of Texas, who is nationally recognized for her efforts to improve the quality of expert testimony in her courtroom. LCJ is currently pursuing state legislative and rule making action in Florida, Illinois, Kansas, Mississippi, Missouri, Oklahoma, South Carolina, and Virginia.

LCJ Top Priority Items

New Initiative for Procedural Rules:

LCJ is pursuing a broad range of procedural and evidentiary rule reforms, many of which are embodied in the Recommendations of the Task Force on Discovery of the American College of Trial Lawyers (ACTL) and the Institute for Advancement of the American Legal System (IAALS). The Report supports the broad based reforms of the principal civil rules that LCJ and its allies have been advocating for years and has spurred the federal rule makers to reexamine the fundamental precepts of the 1938 rules. New initiatives will focus on notice pleading and narrowing the scope of discovery.

Protective Orders and Sealed Settlement Agreements:

Protecting corporate defendants’ privacy rights and proprietary information is a central feature of LCJ’s legislative program. Since 1991, LCJ has led efforts to preserve judicial discretion to approve sealed settlement agreements and to issue orders protecting the confidentiality of information in documents produced during discovery. In 2006, LCJ successfully opposed plaintiffs’ legislative anti-privacy initiatives in Congress and in several states. LCJ also closely monitors the activity of the “Sedona Conference” and other organizations to ensure that the defense perspective is reflected in new policy guidelines. LCJ opposes H.R. 1508 in the US House of Representatives, which diminishes privacy and property rights of defendant corporations which are routinely subject to broad discovery requests. Passage of H.R. 1508 threatens to stimulate a renewed wave of state anti-protective orders legislation and rules initiatives nationwide. LCJ is working closely with its coalition partners to implement a pro-active strategy to oppose protective and sealing order restrictions this year in both the House and the Senate.

E-Discovery:

Federal: LCJ has led the defense community's campaign to amend the Federal Rules of Civil Procedure to reduce the costs and burdens associated with discovery of electronic information. An important milestone was achieved when e-discovery amendments advocated by LCJ were approved by the Federal Judicial Conference and promulgated by the U.S. Supreme Court. They became effective in December 2006. LCJ has maintained a constructive dialogue with key members of the Federal Judicial Conference, including members of the Rules Advisory Committee, several of whom participated at previous LCJ meetings.



State: In 2009, LCJ is working to ensure that state procedural rules are consistent with the newly enacted federal rules. LCJ submitted formal comments in response to the 2005 National Conference of State Courts (NCSC) Guidelines Regarding Discovery of Electronically-Stored Information, and is working with specific state courts to conform their rules to the recently adopted federal rules. LCJ provides state judges with the “defense perspective” on E-Discovery and in conjunction with its supporting defense bar organizations, surveyed the entire organized defense bar to determine where the best opportunities for state e-discovery reform exist. We are currently working with local action teams to ensure new state rules mirror the success achieved at the federal level.

Attorney General/Plaintiffs' Bar Networking:

Amid growing fears of the increased networking between state Attorneys General and the plaintiffs' bar, LCJ has encouraged greater public disclosure in the relationships between A.G.'s and plaintiffs' attorneys. LCJ supports legislative and administrative initiatives that could bring greater transparency to these arrangements.

Judicial Compensation:

Increasing judicial compensation is necessary to curtail the trend of respected judges leaving the bench for more lucrative private practice opportunities. By reducing the chasm between public and private sector legal salaries, we will help ensure the future quality and vitality of the judiciary.

Federal Rule of Evidence 502:

LCJ has pursued coordinated efforts seeking to secure and preserve the fundamental protections afforded by the attorney client privilege and work product doctrine. Most recently, the success of these efforts was illustrated when the Federal Judicial Conference approved a new version of Federal Rule 502 and recommended its adoption by Congress. LCJ helped spur this action by jointly submitting formal Comments to the Rules Committee, which augmented previous testimony by LCJ in favor of the new Rule 502 at the FRE 502 hearings in early 2007. The new Rule provides protections against waiver of the attorney-client privilege or work product immunity. It is designed to protect against the forfeiture of privilege where a disclosure in discovery is the result of an innocent mistake. It also allows parties and courts to protect against the consequences of waiver by permitting disclosures of privileged information between the parties to litigation. Suffice it to say that without LCJ'S focused attention, FRE 502 would not have become law. Current LCJ efforts are focused on adoption of similar privilege waiver rules in the states.