



Tri-State Defense Lawyers Association
13th Annual Meeting
REGISTRATION BROCHURE

September 19 & 20, 2019



Portland Regency Hotel & Spa
20 Milk Street, Portland ME

TDLA Chairperson
Wm. Andrew MacIlwaine

Mathew T. Mehalic, Maine President
Matthew. V. Burrows New Hampshire President
Andy MacIlwaine, Vermont President

MESSAGE FROM THE CHAIR

13th Annual TDLA Meeting



Dear friends and colleagues,

We look forward to spending an evening with you at TDLA's 13th Annual Meeting on September 19 and 20 in the heart of the Old Port. Thursday evening will feature a networking reception and dinner, followed by a special presentation on the highly profiled Duke LaCrosse Case by guest DRI speaker, James P. Cooney III, Chairman of the Litigation Department and a Partner at Womble Bond Dickinson in Charlotte, North Carolina. Afterwards, all are invited to meet up for drinks and perhaps some billiards or bowling.

On Friday, the morning will start with breakfast and a short business meeting, followed by a CLE session Ethical Considerations of High Profile Cases, especially when interacting with the media, by Attorney Cooney. Next will be a panel discussion on 30(b)(6) depositions with Adrienne Fotts (Drummond Woodsum, Portland) and Edward Kaplan (Sulloway & Hollis, Concord). We will end the CLE portion of the meeting with long-time TDLA friends Matt Cairns (Textron, Providence) and Dave Herzer (Constant Energy Capital Management, Portland) as they share their perspectives on corporate counsel interactions with defense counsel.

As part of our participation in the DRI CARES Initiative, we will be collecting food and money donations at the meeting to give to Wayside Food Programs in Portland. Wayside provides weekly community meals, mobile food pantries, and kids healthy snack programs in addition to food rescue programs and community gardens. This is an easy way to give back to one of the communities TDLA serves, and we hope you will join us in this effort.

The Annual Meeting promises to be a great way to catch up with friends, and learn more about the cutting edge issues affecting our practices and clients. See you soon!

Andy MacIlwaine
Tri-State Defense Lawyers Association



TDLA CARES!

As part of our participation in the DRI CARES Initiative, TDLA will be collecting food and money donations to support Wayside Food Programs - fighting hunger and strengthening communities in the greater Portland, Maine, area.



13th ANNUAL MEETING

September 19 & 20, 2019

AGENDA

Portland Regency Hotel & Spa ~ Atlantic Room

THURSDAY, SEPTEMBER 19, 2019

6:00 pm **Reception with Open Bar** 7:00 pm **Dinner**

7:45 pm **Welcome and Introductions**
Wm. Andrew MacIwaine, Dinse (Burlington, VT)

8:00 pm **The Duke Lacrosse Case**
James P. Cooney, III, Partner, Womble Bond Dickenson LLP (Charlotte, NC)

Attorney Cooney will share his perspective on the highly profiled Duke Lacrosse Case, which he served as Counsel for Reade Seligmann, one of the wrongfully accused players. Working with a team of lawyers for the other wrongfully accused players, he exposed prosecutorial misconduct in the suppression of favorable DNA evidence which resulted in the removal and eventual disbarment of the District Attorney and a dismissal of all charges and a declaration by the Attorney-General that the players were innocent.

FRIDAY, SEPTEMBER 20, 2019

7:30 am—8:00 am **Breakfast**

8:00 am—8:30 am **Opening Remarks and TDLA Business Meeting**
Wm. Andrew MacIwaine, Dinse (Burlington, VT)

8:30 am—9:30 am. **Ethical Challenges of the High Profile Case**
James P. Cooney, III, Partner, Womble Bond Dickenson LLP (Charlotte, NC)

Attorney Cooney will share the ethical challenges to consider when representing high profile cases, especially when interacting with the media. The operative rule is 3.6 Trial Publicity. He'll give an overview of this rule and the intricacies of how it can play out. He will discuss the ethical considerations when your case is tried not only by a jury, but by the public eye as well.

9:30 am—10:30 am **30(b)(6) Depositions**
Moderated by **Marrielle B. Van Rossum**, Sulloway & Hollis P.L.L.C. (Concord, NH)

Adrienne Fouts, Drummond Woodsum (Portland, ME)
Edward Kaplan, Sulloway & Hollis P.L.L.C. (Concord, NH)

Federal Rule of Civil Procedure 30(b)(6), along with corresponding state rules, provides a tremendous but sometimes overlooked discovery tool for defense attorneys needing to efficiently gather a corporation's systems, policies, and practices. Attorneys Fouts and Kaplan will present a general overview of the rule, as well as the subtle differences between deposing or defending a corporate entity in Maine, New Hampshire, and Vermont. Topics will also include why an attorney may want to depose a corporate designee in a variety of matters, the distinctions between a 30(b)(6) deposition and a deposition of an individual witness, and factors to consider when deciding whether and how to proceed with a 30(b)(6) deposition.

10:30 am—10:45 am **BREAK**

10:45 am—11:45 am **Corporate Counsel's Relationship with Defense Counsel**
Moderated by **Matthew V. Burrows**, Gallagher, Callahan & Gartrell, P.C. (Concord, NH)

Matt Cairns, Associate General Counsel, Textron (Providence, RI)
Dave Herzer, General Counsel, Constant Energy Capital Management (Portland, ME)

Two seasoned New England defense attorneys recently transitioned to working as in-house corporate counsel. Attorneys Cairns and Herzer are bringing decades of private defense experience now to one client, instead of multiple clients, and have new perspectives on working with outside counsel. They will share tips on how to make the relationship between corporate counsel and defense counsel a successful one.

ABOUT THE PRESENTERS

13th Annual TDLA Meeting



James P. Cooney III

Chairman of the Litigation Department and a Partner
at Womble Bond Dickinson (US) LLP in Charlotte, North Carolina

The Duke LaCrosse Case

8pm on Thursday, September 19, 2019

James Cooney served as Counsel for Reade Seligmann, one of the wrongfully accused players in the "Duke Lacrosse" Rape case. Working with a team of lawyers for the other wrongfully accused players, exposed prosecutorial misconduct in the suppression of favorable DNA evidence which resulted in the removal and eventual disbarment of the District Attorney and a dismissal of all charges and a declaration by the Attorney-General that the players were innocent.

Ethical Challenges of the High Profile Case

9am on Friday, September 20, 2019

James Cooney practices civil and criminal law in both trial and appellate courts. He has handled some of the most complex, challenging and high profile cases in North Carolina and is recognized as one of the premier civil, "white collar" criminal, and healthcare litigators. He has represented numerous companies and individuals in complex and significant business disputes, governmental investigations, grand jury matters, internal investigations and "bet-your-company" cases for more than 30 years. He has tried more than 60 civil and criminal cases to verdict and argued nearly 50 appeals in the appellate courts of North Carolina and in the federal courts of appeal, including the Second and Fourth Circuits.

Jim is a fellow in the American College of Trial Lawyers and a Permanent Member of the Fourth Circuit Judicial Conference. He was selected for inclusion in The Best Lawyers in America in the fields of "Bet-the-Company" Litigation, Commercial Litigation, and Criminal Defense White Collar Litigation. In 2004 he received the N.C. Bar Association's William Thorp Pro Bono Award and in 2010 the Wade Smith Professionalism Award for Criminal Defense. In addition to his practice, he is the Chairman of the Litigation Department where he oversees more than 300 timekeepers.

He received his J.D. from the University of Virginia School of Law and his B.A. from Duke University.

Representative Matters:

- Counsel for Duke Energy in connection with a multi-district grand jury investigation and civil litigation arising out of the Dan River coal ash spill.
- Counsel for Duke Energy in connection with simultaneous investigations by the North Carolina Utilities Commission and North Carolina Department of Justice into the change in the Chief Executive Officer following the merger of Duke Energy and Progress Energy.
- Counsel for the Carolinas HealthCare System in federal and state antitrust litigation brought by the U.S. Department of Justice, the North Carolina Department of Justice, and individuals.
- Acting as counsel pro bono, freed a convicted death row inmate, Alan Gell, by exposing suppressed evidence that led to his wrongful conviction and sentence of death. Gell was the 113th person exonerated in the United States after being tried, convicted and sentenced to death. In the course of Gell's retrial, he presented first of its kind expert evidence in the forensic specialties of body decomposition/anthropology, reverse interior environmental engineering and entomology.
- Acting as counsel pro bono with the New York-based Innocence Project, freed Darryl Howard based upon DNA and forensic evidence. Howard was wrongfully convicted of double homicide and served more than 20 years in prison before he was released.

Professional Activities: Mecklenburg County Bar Association, Chair, Civil Litigation Section, 1993-1998 • North Carolina Bar Association, Chair, AIDS Task Force • Member, North Carolina Association of Defense Attorneys, Board of Directors, 1992-1998, President, 1996-1997 • General Assembly Task Force on the Rules of Civil Procedure, 1997-1998 • Permanent Member, Fourth Circuit Judicial Conference • Chair, Mecklenburg County Courts Committee, 1993-1998 • American College of Trial Lawyers; Member, Board of Directors, Community Defender Organization for the Western District of North Carolina, 2004 to present • Special Select Committee for the North Carolina State Bar, Investigation into Hoke/Graves Disciplinary Hearing, 2005
Honors and Awards: Chambers USA 2018 Ranked Lawyer, Litigation - General Commercial, North Carolina • Super Lawyers Honoree, 2006-2019 • Recognized in The Best Lawyers in America® in the fields of Appellate Practice, Bet-the-Company Litigation, Commercial Litigation, Criminal Defense: Bar Admissions: 1984, North Carolina Admitted to practice before: • United States District Court for the Eastern, Middle and Western Districts of North Carolina • Fourth Circuit Court of Appeals • U.S. Supreme Court • All North Carolina State Courts

ABOUT THE PRESENTERS

13th Annual TDLA Meeting - Friday, September 20, 2019

30(b)(6) Depositions

9:30 a.m. - 10:30 a.m.

Adrienne Fouts is a member of Drummond Woodsum's Trial Services Group in Portland, concentrating her practice in the areas of commercial litigation and higher education. Adrienne represents clients in every aspect of dispute resolution and litigation from pre-suit mediation to post-trial enforcement and appeals. She has litigated a variety of complex commercial matters, including cases involving intellectual property, corporate ownership and contract disputes. Adrienne's practice also includes representing colleges and universities in a variety of capacities, including policy, compliance and student discipline matters. Prior to joining Drummond Woodsum, Adrienne practiced with another Portland law firm and clerked for the Honorable Ellen A. Gorman of the Maine Supreme Judicial Court. She is a member of the Immigrant Legal Advocacy Project's pro bono panel and a former board member of the Maine Volunteer Lawyers for the Arts.



Edward Kaplan is a member of Sulloway & Hollis, PLLC, in Concord, where he represents corporations, businesses, school districts, universities, religious organizations, and hospitals. His practice incorporates all areas of labor and employment law, including matters pending before state and federal courts, the Department of Labor, the Equal Employment Opportunity Commission, the New Hampshire Department of Education and the New Hampshire Commission for Human Rights in discrimination, non-competition, trade secret, wage and hour and wrongful termination cases. Mr. Kaplan has represented school districts, religious organizations and other clients in cases involving allegations of employee misconduct and/or sexual abuse. Additionally, he represents clients in contract negotiations, labor disputes and general labor matters.



Mr. Kaplan has a long history of involvement in race track litigation and in defending the validity of exculpatory releases. He has defended numerous product liability cases, including those involving drugs, machinery, construction equipment, boilers and combustible equipment, sporting goods, automotive equipment, apparel, safety equipment, tobacco, latex and asbestos.

Mr. Kaplan is admitted to practice before all courts in New Hampshire, the U. S. Supreme Court, and U.S. Court of Appeals in the First and Fourth Circuits. Mr. Kaplan is a frequent lecturer on employment and trial issues and has authored materials on sexual harassment, ADA, privacy in the workplace, and related employment matters. He is a fellow of the College of Labor and Employment Lawyers, the International Society of Barristers and the International Academy of Trial Lawyers. Mr. Kaplan is the immediate Past President of the Federation of Defense and Corporate Counsel and a Board Member of DRI. He has been included in The Best Lawyers in America® in the labor/employment law and injury litigation categories since 1987 and is AV-rated by Martindale-Hubbell. Mr. Kaplan is a graduate of the University of Kansas Law School and the University of Kansas.

Marrielle B. Van Rossum joined Sulloway & Hollis in Concord, New Hampshire, in 2015 after spending three years representing the leading healthcare systems in and around Philadelphia in medical malpractice actions.



At Sulloway, her practice concentrates on medical malpractice while also encompassing labor and employment and general litigation. Marrielle was born and raised on New Hampshire's seacoast. Prior to attending law school, she worked in operations at a boutique oil trading firm in Boston.

Marrielle is a graduate of St. Lawrence University and Villanova University School of Law.

ABOUT THE PRESENTERS

13th Annual TDLA Meeting - Friday, September 20, 2019

Corporate Counsel's Relationship with Defense Counsel

10:45 a.m. - 11:45 a.m.

Matthew Cairns Matt Cairns is an Associate General Counsel for Textron Inc. where he manages national and international products liability litigation for its Specialized Vehicles product lines including E-Z-GO, Arctic Cat, Cushman and Tug. Prior to joining Textron, Matt was a proud member of the TDLA for 30 years while he practiced law in New Hampshire. He is a past New Hampshire State Rep for DRI, a former Northeast Regional Director for DRI, and served as the DRI President in 2011. Matt now lives in Rhode Island with his wife Tracey where it takes him 20 minutes to cut his lawn and he rides public transportation to work, in stark contrast to his life in New Hampshire. He is a graduate of Brown University and Case Western Reserve School of Law and is active in many alphabet soup organizations such as FDCC, RIBA, PLAC, IADC, NHBA and DRI.



David Herzer spent the first 28 years of his career at Norman Hanson & DeTroy in Portland, Maine, where his practice areas included general insurance defense, insurance coverage, product liability, lead poisoning, construction defects and contracts, employment law, health care law, and medical malpractice defense for a variety of clients in State and federal trial courts throughout Maine and in appeals before the Maine Law Court, the First Circuit Court of Appeals, and the U.S. Supreme Court. Dave also practiced public utilities law before the Maine Public Utilities Commission as counsel for trade organizations.



Starting in March of 2019, Dave embarked on a new career as the General Counsel for Constant Energy Capital Management, Inc., an online, fintech lending company offering financing options for homeowners to fund improvement projects that make their homes smarter and more energy efficient and providing convenient payment programs for the equipment manufacturers, sellers, and installers. In that role, Dave oversees regulatory compliance, lender licensing, contracts, and internal human resources.

An active member of local, state, national, and international bar associations or attorney organizations, Dave has held leadership positions in the Defense Research Institute and the Northern New England Defense Counsel Association (now known as The Tri-State Defense Lawyers Association). He was a member of the Advisory Committee for the Maine Rules of Civil Procedure from 2010 to 2019 involved in creating new rules for civil litigation. A member of the Maine Professional Ethics Commission since 2010, and its former Chair 2017 to and including 2019, Dave has participated in formulating the Commission's responses to questions raised by attorneys and writing articles and Opinions on issues of ethics.

Matthew V. Burrows of Gallagher, Callahan Gartrell, P.C. in Concord, New Hampshire, is a member of several of the firm's practice groups. His work involves civil litigation, land use, and business law. Matt's diverse practice enables him to bring a broad range of experiences to better serve his clients.



Matt is selected as a top rated civil litigation defense attorney in Concord, NH, by *New England Super Lawyers*[®] with a *Rising Stars* designation for 2017 and 2018. He currently serves as clerk of the New Hampshire Bar Association Telecommunications, Energy, and Utilities Law Section, and serves on the board of directors for the New Hampshire and Vermont Chapter of the Associated Builders and Contractors Young Professionals Group.

Prior to joining Gallagher, Callahan & Gartrell, Matt clerked for two years in the New Hampshire Superior Court, serving as the senior law clerk in his final year of the clerkship. As a law clerk, he assisted the judges in handling a wide variety of cases, including business and commercial disputes, appeals from planning board and zoning board of adjustment decisions, and constitutional litigation. While in law school, Matt externed with Justice Robert Lynn of the New Hampshire Supreme Court.

Matt graduated from the University of New Hampshire School of Law and earned his bachelor of arts from Ithaca College. He was the editor-in-chief of the *University of New Hampshire Law Review*, as well as a Daniel Webster Scholar. Additionally, he was a teaching assistant in legal writing and tutored in business associations.

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13th Annual TDLA Meeting



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Tri-State Defense Lawyers Association

13th Annual Meeting

September 19 & 20, 2019
Portland Regency Hotel & Spa
Portland, Maine

REGISTRATION FORM

Name: _____

Firm: _____

Address: _____

City/State/Zip _____

Phone: _____ Email: _____

Spouse/Guest Name: _____

Check states for which you wish to receive CLE credit: ME NH VT

State Bar Number: ME _____ NH _____ VT _____

MEETING REGISTRATION FEES:

Registration fee includes Thursday night reception and dinner, Friday breakfast and CLE program.
Handout materials will be emailed prior to the meeting.

Member of TDLA:	\$195	_____
New-Member Attorney:	\$270	_____
<i>*Not a member of TDLA? Join today for \$75.00 and register at the member rate!</i> (\$75 new member dues plus \$195 member registration rate)		
Non-Member Attorney:*	\$320	_____
Spouse/Guest of Registrant:	\$100	_____
(No CLE, includes reception, dinner, and breakfast)		

TOTAL FEES: _____

TO REGISTER: Register and pay online by visiting www.tristatedefenselawyers.org or make a check payable to TDLA and mail with this registration form to:

Mark Filler, TDLA Treasurer
P. O. Box 4177, Portland, ME 04101-0377

ACCOMMODATIONS:

A block of rooms has been reserved at the
Portland Regency Hotel & Spa
20 Milk Street, Portland, Maine 04101

Group Rate Ends August 19: \$199+ USD per night
Call 1-800-727-3436 and reference Tri-State Defense Lawyers Association

For more information, please contact: Sheri Leahan, Executive Director, TDLA
Email: sleahan@tristatedefenselawyers.org | www.tristatedefenselawyers.org