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Spring

TRIAL ACADEMY
June 8 - 10, 2005
Columbia, SC

Summer

JOINT MEETING
July 28 - 30, 2005
Grove Park Inn Asheville, NC



Fall

ANNUAL MEETING
November 3 - 6, 2005
Pinehurst Resort Pinehurst, NC

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THE DefenseLINE

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President's Letter

by James R. Courie



I am a compulsive list maker. I have a list for almost everything. I make a list of telephone calls that need to be returned, e-mails that require action, projects to be completed, even ideas that I would like to follow up on at some point. I would rather lose my wallet or car keys than the legal pad I carry around with me that records my various lists of things to do.

Given my penchant for list making, I am sure it doesn't surprise anyone that when I took over as President, I made a "to-do" list. At some point, I tried to prioritize my list and accepted the fact that all of these things probably wouldn't get done in one year. Back in November, my list looked something like this:

1. Leadership opportunities
2. Venue legislation
3. Foundation
4. PAC
5. Trial Academy / new location
6. Annual Meeting – location?
7. Increase value of membership
8. Increase attendance at Joint Meeting
9. More corporate counsel members

As with any good list, a couple of items can be checked off, a couple are in progress, and a few might have to wait for another day. Here's how my list is shaping up mid-way through the year.

1. **Leadership opportunities.** I have been concerned over the last several years that as an Association, we are not providing enough leadership opportunities for our younger members. Our committee chairs have worked very hard this year to reach out to younger lawyers (and a few older ones) who may have attended meetings but have not actively been involved in the Association. John T. Lay and the Conventions Committee have done an excellent job in getting others involved. Similarly, Matt Henrikson with the Membership Committee and David Rheney and Curtis Ott with the Trial Academy have worked hard to create opportunities for others. We will continue to look for ways for younger members to get involved in the committee system and create opportunities for future SCDTAA leaders.
2. **Venue legislation.** I couldn't be more pleased with our Legislative Committee and Tort

Hemphill Award: Call for Nominations

Eligibility: The candidate must be a member of the South Carolina Bar and a member or former member of the SCDTAA. He or she may be in active practice, retired from active practice or a member of the judiciary.

Criteria: The award should be based upon distinguished and meritorious service to legal profession and/or the public, and to one who has been instrumental in developing, implementing, and carrying through the objectives of the SCDTAA. The candidate should also be one who is or has been an active, contributing member of the Association.

Procedure: Nominations should be made by letter, with any supporting documentation and explanations attached. A nomination should include the name and address of the individual, a description of his or her activities in the Association, the profession and the community and the reasons why the nominee is being put forward.

Nominations due to Aimee Hiers at SCDTAA Headquarters by July 29.
SCDTAA • One Windsor Cove, Suite 305 • Columbia, SC 29223
For more information contact Aimee at aimee@jee.com

Reform efforts this year. We played a significant role in not only passing venue legislation but other civil justice reform as well. Gray Culbreath, our Legislative Chair, and Jeff Thordahl, our Association Lobbyist, did an outstanding job working with the Tort Reform Coalitions. In addition to Tort Reform, there were countless other bills that we monitored and provided technical insight to members of the General Assembly. Our goal was to play a more active role, and I think we have accomplished that this year. I believe our Association will reap the benefits from this effort for many years to come.

3. **Foundation.** We continue to make progress with the concept of starting a Foundation. Many thanks to Mills Gallivan, Bill Davies, and Molly Craig for their hard work in this endeavor. In March, the Executive Committee approved a resolution supporting the Foundation concept and authorized the Committee to move forward with a survey regarding potential sources of funding. This is not a short-term project; however, I do believe it is a worthwhile endeavor. If we can get the Foundation started, it will provide long-term stability for many of our educational and membership endeavors.
4. **PAC.** As part of our continued effort to increase visibility at the State House, our Association approved a resolution authorizing the formation of a Political Action Committee. Guidelines, procedures, eligibility, and source of funding are still being discussed. Once again, this is a step toward making our Association more visible and involved in our legislative process.
5. **Trial Academy.** After two years in Greenville and two years in Charleston, the Trial Academy returns to Columbia. We are extremely fortunate this year to use the new Matthew J. Perry Jr. Federal Courthouse for our Friday trials. We will hold other educational sessions at the State Museum. Although the Law School provided an adequate venue in years past, we are very excited about the facilities that we have been able to obtain this year. Our Trial Academy is a model program for other Defense organizations throughout the country and deserves the best facilities available.
6. **Annual Meeting.** About the same time I took over, we got a very nice letter from the Cloister informing us that their renovations would not be completed in time for our 2005 Annual Meeting. Our Executive Director, Aimee Hiers, worked hard to help us find an alternate location. We are very excited about our Annual Meeting at Pinehurst. We have not met at Pinehurst as an Association in over 20 years. The facilities and resort is beautiful and has

been completely renovated. The resort has added a wonderful shopping village and world class spa. Of course, as host to the 2005 U. S. Open, I really don't need to tell you about the quality of their golf. We are very excited about our plans to visit Pinehurst in November. We will again invite all sitting State and Federal Judges to attend at our expense. I hope you will join us at the beautiful Pinehurst Resort in November.

7. **Membership.** Although it's a broad concept, we continue to focus on increasing the value of our membership. We have held successful judicial receptions in Charleston and Columbia. Greenville is scheduled for later this year. Our website continues to be a focus as well as encouraging more active communication by using our list serve. Our meetings and Trial Academy continue to provide excellent educational opportunities and social interaction with other lawyers and members of our judiciary. I don't have any doubt that membership in our Association is a great value. My concern is making sure that our members understand the benefits and that we appropriately spread the word.
8. **Joint Meeting.** Once again, John T. Lay and his committee have worked very hard to develop an outstanding program for our Joint Meeting. In addition, we have commitments from six of the seven Workers' Compensation Commissioners to attend. My goal is to increase overall attendance. In addition to members of the Claims Management Association of South Carolina, we have invited other groups including the South Carolina Self Insurers Association and RMS. The continued viability of the Joint Meeting depends on adding diverse groups and increasing attendance.
9. More corporate counsel members. Last year's President, Sam Outten, worked very hard to lead an effort to establish a corporate counsel section. Sam has continued to volunteer his time this year to help add corporate counsel to our membership. As the legal market has changed over the years, we believe increased membership from corporate counsel, especially those involved in litigation, are a great asset to our overall mission.

Our list is far from complete and I am open to adding items at any time. If you have any suggestions, questions or concerns about our Association, I would welcome your input. I can be reached at (803) 227-2223 or by e-mail at jcourie@mgclaw.com.

Now that I've checked writing this month's President's letter off my list, it's time to move on to another task.

2005 Joint Meeting

July 28 - 30 • Asheville, NC

by John T. Lay, Jr.



The South Carolina Defense Trial Attorneys' Association and the South Carolina Claims Management Association will hold the 38th annual Joint Meeting in Asheville, N.C. July 28 - 30 at the beautiful Grove Park Inn. This year's meeting is one of the most important our organizations have ever held. Due to the Tort Reform movement, there have been fundamental changes in the law that will effect the way we evaluate and litigate cases. Not surprisingly, this year's meeting will focus on this tort reform and will be one of the first seminars to address this topic.

We are bringing together some of the most experienced and skilled litigators in the state to provide insight on the practical impact of this legislation and to offer strategies on how to use this new legislation to your advantage. The Honorable Thomas Cooper, the circuit judge charged with educating other judges in the state on tort reform, will also be in attendance to offer perspectives from the bench. Other highlights include Mac Macarley, Charlotte's city attorney, renowned for his negotiating abilities, to speak on negotiation strategies. We also are honored to have Richard Boyette, the current president of the Defense Research Institute, the leading national organization for the civil defense industry, to discuss national tort reform. In addition, a substantial portion of the program will be dedicated to issues involved with Workers Compensation and

all the Workers Compensation Commissioners have been invited to attend. Further, we are offering a program relating to construction law including, a discussion of the way in which tort reform will impact this specialized practice area and the impact of the significant Bituminous case. Restrictions on venue, caps on damages, heightened prohibitions on frivolous proceedings, amendments to the Statute of Repose, class action legislation, joint and several liability ---- the list goes on and on and all of these issues will be addressed. If you litigate in the State of South Carolina, you simply cannot afford to miss this incredible and critical meeting.

We also have the exciting social activities offered at the Grove Park Inn, including the Annual Golf Tournament, white water rafting, and the silent auction which benefits the South Carolina Bar Foundation. Of course guests can also enjoy the wonderful restaurants both on and off site. Reservations should be made quickly for the celebrated Grove Park Inn Spa.

Litigation practice in South Carolina has changed significantly over the past few months. There are more weapons in the arsenal with which to defend our cases but there are traps and potential land mines for the uneducated ---- Do not miss this seminar; it is your opportunity to avoid these problems and to be in a great position for success.

2005 Joint Meeting Tentative Agenda

THURSDAY, JULY 28, 2005

3:00 pm
Tennis Tournament

3:00 pm - 5:00 pm
SCDTAA Executive
Committee Meeting

4:00 pm - 5:00pm
CMASC Business Meeting

5:00 pm - 6:00 pm
Young Lawyers Division Meeting

4:00 pm - 7:00 pm
Registration Desk Open

6:30 pm - 8:00 pm
Welcome Cocktail Reception

FRIDAY, JULY 29, 2005

8:00 am - 12:00 noon
Registration Desk Open
Exhibit Hall Open

8:00 am - 9:00 am
Coffee Service

8:15 am - 8:30 am
Welcome
James R. Courie - SCDTAA President
Charles R. May - CMASC President

Tennis Tournament:

Thursday, July 28: 3:00 pm

White Water Rafting Trip

Friday, July 29: 12:15 pm

Golf Tournament

Friday, July 29: 12:30 pm

8:30 am - 9:00 am
Tales from the Tort Reform Wars
Cameron F. Crawford,
Director of South Carolinians for Tort Reform

9:00 am - 9:30 am
Perspectives on National Tort Reform
Richard T. Boyette, Esquire
President, Defense Research Institute

9:00 am - 10:00 am
Construction Law Breakout: Bituminous and Tort Reform
Francis M. Mack, Esquire
G. Trenholm Walker, Esquire

9:00 am - 9:20 am
WORKERS' COMPENSATION BREAKOUT:
Defense Strategies for Handling Repetitive Trauma
J. Russell Goudelock II, Esquire

9:20 am - 9:40 am
WORKERS' COMPENSATION BREAKOUT:
Employer Perspective on Repetitive Trauma
Michael S. Smith, Companion Property & Casualty

9:40 am - 10:00 am
WORKERS' COMPENSATION BREAKOUT:
The Affect and Implications of Hargrove
Walter H. Barefoot, Esquire

9:30 am - 10:00 am
Stopping the Pain: Changes on Venue Law
Ronald K. Wray II, Esquire

10:00 am - 10:15 am
Coffee Break

10:15 am - 11:30 am
A Review of Negotiation Skills
DeWitt "Mac" McCarley, Esquire

11:30 am - 12:00 noon
The Ethical Dilemmas of the Tripartite Relationship

12:00 noon - 1:00 pm
Beverage Break

12:15 pm - 5:30 pm
White Water Rafting Trip

Joint Meeting

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12:30 pm

Golf Tournament

Scott B. Garrett & Anthony W. Livoti, Golf Chairs

**To be Held at Reems Creek Golf Club

6:30 pm – 10:00 pm

Children's Program at The Grove Park Inn

6:30 pm to 8:30 pm

Cocktail Reception / Silent Auction

**Please be aware credit cards will not be accepted at the silent auction this year.

SATURDAY, JULY 30, 2005

8:00 am – 12:00 noon

Registration Desk Open

Exhibit Hall Open

8:00 am – 9:00 am

Coffee Service

8:00 am – 8:30 am

SCDTAA Business Meeting

8:30 am - 9:00 am

Ethical Conduct in Depositions

David G. Traylor, Jr., Esquire

9:00 am - 9:30 am

Changes in Class Action Law

B. Rush Smith III, Esquire

9:00 am – 9:30 am

EMPLOYMENT LAW BREAKOUT:

Employment Law Update

Stephen C. Mitchell, Esquire

9:30 am - 10:00 am

Overview on Tort Reform Bills

The Honorable Thomas W. Cooper, Jr.

10:00 am – 10:15 am

Coffee Break

10:00 am – 10:20 am

WORKERS' COMPENSATION BREAKOUT:

The Status of Worker' Compensation Legislation

Stephen P. Bates, Esquire

SCDTAA Lobbyist

10:15 am -12:00 noon

Panel Discussion - Application of Tort Reform

The Honorable Thomas W. Cooper, Jr.

J. Boone Aiken III, Esquire

George C. Beighley, Esquire

Frank H. Gibbes III, Esquire

Gary W. Popwell, Jr., Esquire

Barry B. Reynolds, District Claims Manager,

South Carolina Farm Bureau

Rebecca Laffitte – Moderator

10:20 am – 10:40 am

WORKERS' COMPENSATION BREAKOUT:

Defense Perspective on Compensation Legislation

Grady L. Beard, Esquire

10:40 am – 11:00 am

WORKERS' COMPENSATION BREAKOUT:

Case Law Update

Harold J. Willson, Jr., Esquire

11:00 am – 11:45 am

WORKERS' COMPENSATION BREAKOUT:

Testing for Repetitive Trauma in the Workplace

Dr. Forrest Pommerenke,

Industrial Medicine and Wellness

11:45 am – 12:00 noon

WORKERS' COMPENSATION BREAKOUT:

Ask the Commissioners

Question and Answer Session with the

Commissioners

12:00 noon – 1:00 pm

Adjournment/Beverage Break

Cocktail Reception and Silent Auction

6:30 – 8:30 pm

Friday, July 29

*** Please be aware credit
cards will not be accepted at
the silent auction this year.**

SCDTAA Holds 15th Annual Trial Academy

by Jennifer S. Barr

The South Carolina Defense Trial Attorneys' Association held its Fifteenth Annual Trial Academy June 8-10 in Columbia, South Carolina. The Trial Academy hosted 24 participants from all over South Carolina.

Trial Academy participants included: Jamie Ackermann of Gallivan White & Boyd, P.A.; Tynika Adams of Richardson Plowden Carpenter & Robinson, P.A.; Pete Balthazor of McAngus Goudebeck & Courie; Shannon Furr Bobertz of Turner Padgett Graham & Lane, PA; Chris Dorsel of Turner Padgett Graham & Laney, P.A.; David Dubberly of Nexsen Pruet Adams Kleemeier; J. Gary Eichelberger of Nelson Mullins Riley & Scarborough, L.L.P.; Mark V. Gende of Sweeny Wingate & Barrow, P.A.; Ashley S. Heslop of Turner Padgett Graham & Laney, PA; Kenneth Hinson of Nelson Mullins Riley & Scarborough, L.L.P.; Doug Hodge of Turner Padgett Graham & Laney, P.A.; Zandra L. Johnson of Leatherwood Walker Todd & Mann, PC; John A. Jones of Barnwell Whaley Patterson & Helms, L.L.C.;

Brad Lanford of Baker Barwick Ravenel & Bender, L.L.P.; Jay R. Lee of Aiken Bridges Nunn Elliott & Tyler; Amy L. Milligan of Baker Barwick Ravenel & Bender, L.L.P.; Ryan S. Montgomery of Gallivan White & Boyd, P.A.; Kristina D. Nelums of Ellis Lawhorne & Sims, PA; E. Christina Rampey of Nelson Mullins Riley & Scarborough, L.L.P.; C. Cliff Rollins of Richardson Plowden Carpenter & Robinson, P.A.; Sam Sammataro of Turner Padgett Graham & Laney, P.A.; Brandon Smith of Turner Padgett Graham & Laney, P.A.; Andrea K. St. Amand of Nelson Mullins Riley & Scarborough, L.L.P.; and Trey Suggs of Gallivan White & Boyd, P.A.

The Trial Academy opened on Wednesday with presentations by leading members of the South Carolina defense bar. These presentations were held at the South Carolina State Museum on Gervais Street. Speakers on Wednesday included John T. Lay, Jr. of Ellis, Lawhorne & Sims, PA, Steven M. Krause of Krause Moorehead & Draisen, Kaye G. Crowe of Barnes Alford Stork & Johnson, Marjorie

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Trial Academy

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"Betsy" Elizabeth Goodale of the South Carolina Supreme Court, and Daniel E. Shearouse of the South Carolina Supreme Court. Wednesday's presentation included: motions in limine, voir dire, and opening statements, direct and cross-examinations of lay witnesses, preserving the record on appeal, and the use of exhibits at trial.

A cocktail reception was sponsored Wednesday evening by the Young Lawyers Division of the SCDTAA at Liberty Taproom and Grille in the Vista. The reception was attended by Trial Academy participants, members of the Executive Committee, other young lawyers, and several of the Trial Academy speakers. At the conclusion of the cocktail reception, the Trial Academy participants joined their partners to prepare for the mock trial on Friday.

Speakers during the Thursday presentation included Joel W. Collins, Jr. of Collins & Lacy, P.C., Samuel W. Outten of Womble Carlyle Sandridge & Rice, PLLC, and John S. Wilkerson, III of Turner Padgett Graham & Laney, P.A. The topics covered on Thursday included: direct and cross-examination of expert witnesses, deposition strategy and use of depositions at trial, closing arguments, and post-trial motions.

During the two days of presentations, participants were given the opportunity to practice the various techniques and skills which were discussed in breakout sessions which were moderated by experienced attorneys. Breakout session moderators included: T. David Rheney of Clarkson, Walsh, Rheney & Turner;

Curtis L. Ott of Turner, Padgett, Graham & Laney, PA; A. Johnston Cox of Ellis, Lawhorne & Sims, PA; Andrew S. Culbreath of Love Thornton Arnold & Thomason, PA; William S. Brown of Nelson Mullins Riley & Scarborough, L.L.P.; Molly Hood Craig of Hood Law Firm, LLC; and William G. Besley of Howser Newman & Besley, L.L.C.

Thursday night, the SCDTAA hosted a judicial reception at the Meridian Building. Trial Academy participants were invited to attend the reception and given an opportunity to meet several state and federal court judges who were in attendance. The cocktail reception was well-attended by over one hundred attorneys and judges.

The mock trial competition was held on Friday at the new Matthew J. Perry, Jr. Federal Courthouse on Richland Street. Trial Academy participants were paired into teams as either the Plaintiff or the Defendant in the trial of *Kenneth Cuttino v. Charleston University*.

Six mock trials were conducted at the courthouse on Friday, with the following judges presiding: Matthew J. Perry, Jr., Margaret B. Seymour, Bristow Marchant, Thomas L. Hughston, Jr., Wyatt T. Saunders, and Reginald I. Lloyd. Law firms from around the state provided attorneys and law clerks to serve witnesses and jurors in these cases. The trial concluded late in the afternoon, with four hung juries, one defense verdict and one verdict for the plaintiff. Trial Academy participants were provided an opportunity to talk with jurors about their impressions of the trial, and to receive feedback regarding their prosecution or defense of the case.

For the first time this year, experienced trial attorneys were asked to sit in on the mock trials, observe the performances of the participants, and provide detailed comments and suggestions at the conclusion of the trials.

Additionally, the following attorneys were asked to each evaluate one mock trial: R. Bruce Shaw of Nelson Mullins Riley & Scarborough, L.L.P., W. Francis Marion, Jr. of Haynsworth Sinkler Boyd, Frank W. Gibbes of Gallivan White & Boyd, N. Heyward Clarkson, III of Clarkson, Walsh, Rheney & Turner, and William P. Simpson of Nelson Mullins Riley & Scarborough, L.L.P. These attorneys each dedicated a full day to view the trials and their comments were invaluable to these young lawyers.

The South Carolina Defense Trial Attorneys' Association would like to thank everyone who dedicated their time to making this year's Trial Academy a success. Special thanks to the chairman of the 2005 Trial Academy: Curtis Ott and David Rheney, as well as Catherine Templeton, William Brown, Johnston Cox, and Andrew Culbreath for their hard work.

For information about the 2006 Trial Academy, please contact Aimee Hiers, the Executive Director of the South Carolina Defense Trial Attorneys' Association, at aimee@jee.com.

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Charleston Judicial Reception

by Matthew H. Henrikson

There's nothing like springtime in Charleston and so it was for over 100 defense lawyers and judges who assembled at a judicial reception and cocktail party hosted by Mark and Karen Phillips in their beautiful home on the Battery. With a choppy Charleston Harbor in every window, old friends and new all got a chance to break from their busy schedules and catch up with members of the Charleston and Beaufort defense bars and even a few of our Columbia and Greenville colleagues who traveled down for a great time. Highlighting the party was a great turnout of judges who held no one in

default and granted all continuances. Per house rules, no guest was allowed to leave without proof of having had too much to eat and drink, and everyone had a grand time. Special thanks to Mark and Karen (mostly Karen) for giving us their fabulous home for this the first of the Association's judicial receptions this year and making it a huge success. Be sure to make plans to join us in Columbia on Thursday, June 9 at Nelson Mullins Riley & Scarborough for our next reception which is in conjunction with this year's Trial Academy.



SCDTAA Legislative Reception

by Gray T. Culbreath



*Duncan McIntosh, SCDTAA Corporate Counsel
Chairperson; Representative Ted Vick;
Representative Walt McLeod*



*Representative Doug Smith; Representative
Doug Jennings; Representative Ted Vick*



*Senator Luke Rankin; Representative Laurie
Funderburk; Judge John Few*



*Gray Culbreath, SCDTAA Legislative Committee
Chair; Sam Outten, SCDTAA Immediate Past
President; Jay Courie, SCDTAA President*

The Association held its first Legislative Reception for members of the South Carolina Legislature at the Oyster Bar in the Vista in Columbia on April 5, 2005. The Legislative committee was established by the Association in 2004 in an effort to raise the Association's profile with the General Assembly.

The invitation to enjoy oysters and beverages was extended to the members of the House and Senate Judiciary Committees. Representing the Association at the event were the officers and members of the Executive Committee along with the Association's lobbyists from MGC Consulting, Steve Bates and Jeff Thordahl. Our guests from the General Assembly included President Pro Tempore of the Senate Glenn McConnell, Speaker of the House David Wilkins, Senator Larry Martin, Senator Luke Rankin, House Judiciary Committee Chair Jim Harrison, Representative Chip Huggins, Representative Thayer Rivers, Representative Doug Smith, Representative James Smith, as well as members of their staff.

All in attendance enjoyed the fellowship and the casual atmosphere, allowing our membership to socialize with the members of the General Assembly. As a result of the strong attendance and positive feedback from this year's event, we hope this reception will become a signature event in the years to come.

Order to Deny Plaintiff Motion to Quash

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Ronnie R. Miller, Plaintiff,

v.

Leslie Shantell Davis, Defendant.

IN THE MAGISTRATE COURT

(JURY TRIAL DEMANDED)

C.A. NO. 03-CV-2131

Order Denying Plaintiff's Motion to Quash

On February 19, 2004, personally appeared before me Matthew Yelverton for Plaintiff and Robert Davis for Defendant on Plaintiff's Motion to Quash Defendant's Third-Party subpoenas to produce documents prior to trial. Based on the briefs submitted, the arguments of counsel, and the applicable law, I hereby deny the Motion to Quash Defendant's subpoenas.

Plaintiff filed this suit against Defendant claiming personal injuries arising out of an automobile accident. Plaintiff seeks to recover medical bills and lost wages. Based on Plaintiff's claims, Defendant issued subpoenas to Plaintiff's health care providers and Plaintiff's employer.

I.

Plaintiff argues these third-party subpoenas are prohibited under the Magistrate's Court Rules. I disagree.

The only type of "subpoenas" covered by the Magistrate's Court Rules are trial subpoenas. Rule 1, MCR. The Magistrate's Court Rules do not cover third-party subpoenas for the production of documents prior to trial. Rule 2, MCR, states that when a procedure is not covered by the Magistrate's Court Rules, "The court shall proceed in a manner consistent with the statutory law applicable to magistrates and with circuit court practice in like situations but not inconsistent with these rules." Furthermore, Rule 81, SCRCP, states that the Rules of Civil Procedure shall apply to Magistrate's Court provided there is no rule to the contrary.

Looking to the Rules of Civil Procedure, Rule 45, SCRCP, permits the use of third-party document subpoenas. Accordingly, third-party document subpoenas are proper under the Magistrate's Court Rules.

II.

Plaintiff argues the prohibition on mandatory "discovery" found in Rule 13, MCR, also prohibits third-party document subpoenas. I disagree.

As defined by Black's Law Dictionary, trial practice "discovery" means, "The pre-trial devices that can be used by one party to obtain facts and information about the case from the other party . . ." Id. at 466 (emphasis added). By definition, third party document subpoenas are not directed to the "other party."

Third-party document subpoenas are also not considered discovery under the Rules of Civil Procedure. Rule 45, SCRCP, which governs third-party document subpoenas, is not contained in the subsection of the civil court rules entitled "Depositions and Discovery."

I, therefore, find no conflict between the ban on compulsory discovery in Magistrate's Court and the issuance of third-party subpoenas. See generally *Widman v. Widman*, 348 S.C. 97, 557 S.E.2d 693 (Ct. App. 2001) (upholding the use of third party document subpoenas in Family Court, whose rules contain a prohibition on "discovery").

III.

Defendant argues that he would be prejudiced if Plaintiff could obtain information from third-parties through a medical authorization but Defendant could not obtain the same information from third-parties through a third-party document subpoena. I agree.

The rules of court are supposed to "serve the ends of justice." Rule 2, MCR. Justice is served by a speedy and complete discourse of the issues, which can best be done through the issuance of third party document subpoenas. Accordingly, I believe that disallowing third-party document subpoenas is contrary to the public policy of this state.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Quash the third-party document subpoenas is hereby DENIED.

IT IS FURTHER ORDERED that all third-party recipients of Defendant's subpoenas shall comply with the subpoenas within five business days of the receipt of this Order.

IT IS SO ORDERED.

Robert B. Howell

Presiding Judge

20, February, 2004.

DRI Update

by John S. Wilkerson, III

The Maryland Defense Counsel hosted the DRI Mid-Atlantic regional meeting on April 22-23 in Annapolis Maryland. The event was very well attended and the program and social events were superb. These annual meetings are an excellent opportunity to get to know the defense bar leaders in our region and to share good ideas for improvement of the services provided by the state and local defense organizations.

This year's program included a presentation by Bob Scott, past DRI President, on the newly formed National Foundation for Judicial Excellence. The NFJE is an organization initially funded by a grant from DRI, whose mission is to help strengthen and preserve the American civil justice system through educational programs and scholarly works on topics

important to America's judiciary. The First Judicial Symposium entitled "Justice and Science" will be presented July 15-16, 2005 in Chicago and invitations have been extended the appellate judiciary in all 50 states. Highlights of this inaugural event will include a simulated courtroom demonstration with arguments for admission and exclusion of evidence by leading members of the plaintiff and defense bars, as well as presentations by three of the nation's top legal scholars on the subject of scientific evidence. Nina Totenberg, NPR's award-winning legal affairs correspondent, will present a keynote address. Appellate judges from at least 41 states, including 5 from South Carolina are scheduled to attend.

Everyone should be aware of the valuable DRI member benefit available through the Expert Witness Database (EWD). Information can be searched on experts by name, keyword and over 400 topics, and searches are free of charge. For each witness record, you can view the expert's profile, area of expertise and a listing of available documents. Additionally, the EWD provides you with a list of members who have previously inquired about a specific expert witness along with their contact information. Documents including deposition transcripts, resumes, reports, articles, etc. can be obtained for a small charge. The database can be accessed only by DRI members logged onto the website at www.dri.org.

Finally, you don't want to miss this year's DRI annual meeting to be held October 19-23 at the Sheraton Chicago Hotel and Towers. South Carolina's own David Dukes will be inaugurated DRI President at this meeting the SCDTAA is certain to have a great turnout for this important event. The program, like all DRI presentations, will be top flight and there will be many opportunities for networking, socializing as well as relaxing. Registration materials are now available at the DRI website. I hope to see you there!!

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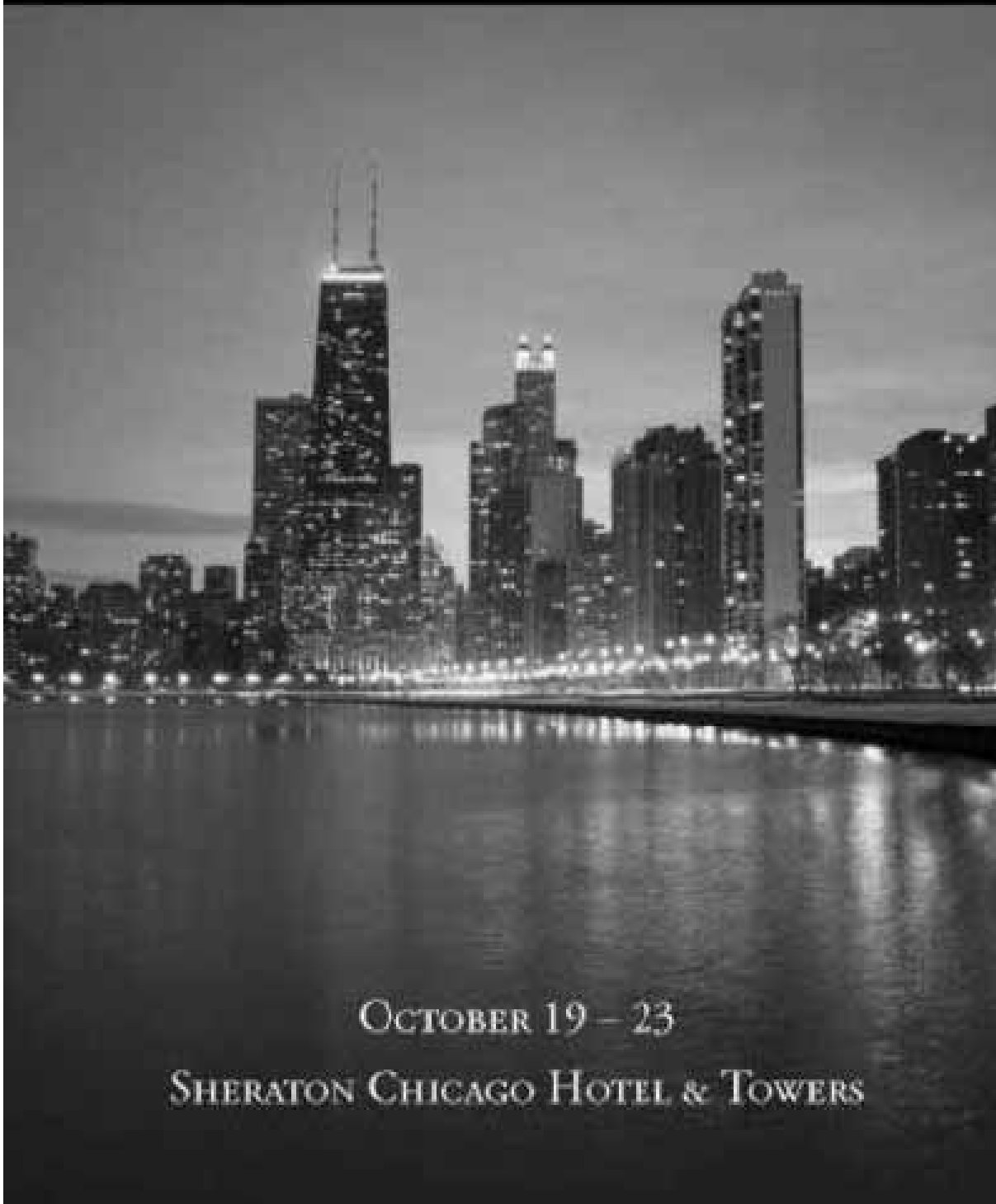
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