

WILLIAMS MONTGOMERY & JOHN LTD

A FIRM OF TRIAL LAWYERS

Complimentary CLE Programs



Willis Tower

233 S. Wacker Drive, Suite 6100

Chicago, Illinois 60606-6359

Phone: 312.433.3200 Fax: 312.630.8500

www.willmont.com

*We are passionate about
 what we do and our passion
 is reflected in the quality
 programming and information
 we share with our clients.*

Table of Contents

Advertising Injury Claims 1
 Antitrust Law Overview: What Every Successful
 Business Needs to Know 1
 Attorney-Client Privilege..... 1
 Computer Fraud and Abuse Act..... 1
 What Every Manufacturer Needs to Know About
 the Consumer Product Safety Commission Database 1
 Coverage for Construction Claims 2
 eDiscovery: Rise of the Machines 2
 Electronic Discovery..... 2
 Expert Witness: Selection, Communications and Disclosures..... 3
 The Impact of HIPAA and Other Privacy Acts..... 3
 Construction Coverage Law Update 3
 How to Comply with Illinois Unfair Claims Practices Act 3
 Pros and Cons of Joint Defense Groups 3
 New Illinois Rules of Professional Conduct 3
 Litigation Hold Letters 3
 Preparing for Mediation..... 4
 Medicare Set Asides 4
 Patent Damages 4
 A U.S. Patent Law Primer 4
 Premises Liability 4
 Spoliation..... 4

CLE Program Instructor Biographies

David L. Applegate..... 5
 Michael C. Bruck..... 5
 Jeremy T. Burton 5
 Peter C. John 5
 Brigid E. Kennedy..... 5
 Bradley C. Nahrstadt 5
 Thomas J. Pontikis 5
 Steven J. Roeder 5

Advertising Injury Claims

Instructor: Michael C. Bruck

Advertising a company's goods, products or services occasionally results in more than attracting customers or supporters. Advertising injury claims are among the most widely litigated claims in the insurance coverage area. Such claims can include trademark and trade dress infringement, copyright infringement, patent infringement, theft of trade secrets, unfair competition, and libel, slander or commercial disparagement.

This one-hour program covers the definition of "advertising", changes in standard policy language with respect to advertising injury claims, the requirements for finding applicable coverage, the legal requirement of a causal connection to injuries, the applicability of common exclusions, and recent case law and trends in advertising injury practice.

Antitrust Law Overview: What Every Successful Business Needs to Know

Instructor: David L. Applegate

Antitrust law did not die in the 1970s or with the breakup of the telephone company in the 1980s. Although it has taken a backseat to patent law protection over the past quarter century, antitrust enforcement – designed to help ensure free and honest competition in the business marketplace – remains alive and well. What can and cannot honest business people do to expand their markets? When and under what circumstances can they work with competitors in joint ventures? What businesses can they acquire without running the risk of triggering antitrust scrutiny?

These and other practical questions are covered in this one-hour program using real-world examples – not simply a review of case law. This course is suitable for non-lawyers, division managers, company officers and others whose career plans and goals depend on expanding business growth while minimizing legal risk.

Attorney-Client Privilege

Instructor: Peter C. John

Many practitioners believe that as long as a lawyer is communicating with a client, or a client is communicating with a lawyer, the attorney-client privilege applies. However, there are a number of exceptions to what lawyers believe are attorney-client-protected communications and even more exceptions to the work-product privilege. For instance, the attorney-client privilege does not exist if the client's contact with the lawyer is concerning business decisions as opposed to receiving legal

advice. There also is the crime/fraud exception to communications where a claim is made that the client was involved in fraud and therefore waives the attorney-client privilege. Many corporations make the mistake of copying email communications to addressees who are not in the control group and therefore are outside the protection of the attorney-client or even the work-product privilege. Additionally, there are exceptions to the work-product privilege depending upon the particular circumstances involved.

This one-hour program revisits the attorney-client and work-product privilege issues in Illinois and other jurisdictions (upon request).

Computer Fraud and Abuse Act

Instructor: Bradley C. Nahrstadt

Every year, corporations lose millions of dollars when their former employees wipe laptops and hard drives clean when the pink slips arrive, steal company secrets, or provide sensitive product information to competitors. Lawsuits against those former employees usually are the end result of such activities. Most complaints contain all the old standbys: breach of contract, tortious interference, misappropriation of trade secrets, unfair competition, breach of fiduciary duty, and inducement of breach of fiduciary duty. Serious thought also should be given to bringing a cause of action under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, et seq.

This one-hour program explains the intricacies of this powerful statute and provides important information about pleading and proving a claim for damages under the Act.

What Every Manufacturer Needs to Know About the Consumer Product Safety Commission Database

Instructor: Bradley C. Nahrstadt

In 2008, Congress passed the Consumer Product Safety Improvement Act of 2008 (CPSIA). Section 212 of the CPSIA amended the Consumer Product Safety Act and required the Consumer Product Safety Commission (CPSC) to establish and maintain a searchable product safety information database that was available to the public. On May 7, 2010, the CPSC gave notice of its proposed regulations establishing a publicly accessible and searchable database. On December 9, 2010, the CPSC published in the Federal Register its Final Rule establishing the Publicly Available Consumer Product Safety Information Database, which went live on March 11, 2011.

continued on next page.

Some have suggested that the Database is long overdue and will serve to fully inform the public of problems associated with consumer products. Others have voiced concern that such a “crowd-sourced” Web site will be bloated with bogus, inaccurate and misleading reports. Still others have argued that the Database will be used by consumer advocacy groups and plaintiffs’ attorneys to manufacture evidence to be used in class action lawsuits. All of these claims may or may not be true, but one thing is certain: product manufacturers and labelers must be intimately familiar with the Database and take certain steps to ensure they are prepared to respond to reports of harm that are submitted to the CPSC for inclusion in the Database.

This one-hour program discusses the mechanics of submitting and responding to reports of harm and offers companies some insight into the issues they should consider when responding to reports posted to the Database.

Coverage for Construction Claims

Instructor: [Michael C. Bruck](#)

When a homeowner or a business owner discovers a defect in new construction, a lawsuit against the general contractor and subcontractors is not far behind. Construction defect claims are made more complicated by contractual provisions in construction contracts under which subcontractors are required to defend and indemnify general contractors and list general contractors as additional insureds.

This one-hour program covers the definition of “property damage”, common policy language and exclusions, the tug-of-war over whether faulty or defective workmanship even constitutes an “occurrence”, and consequential damage issues. The program also surveys recent developments and current case law impacting construction defect claims.

eDiscovery: Rise of the Machines

Instructor: [David L. Applegate](#)

The cost of civil litigation and the ability to conduct any cost-benefit analysis is inextricably intertwined with the cost of discovery: production and protection of sensitive company documents; written interrogatories concerning company policies and personnel; and, finally, depositions under oath of company officials and representatives. The fact that the vast majority of documents today exist primarily in electronic form, coupled with the ease of their replication and distribution, makes both obtaining and producing a company’s relevant documents in litigation a daunting and risky endeavor.

This entertaining and informative one-hour program walks participants through a brief history of the develop-

ment of federal discovery rules, followed by a review of the pilot program of the Seventh Court of Appeals’ four principles for reducing the burden and increasing the effectiveness of discovery of electronic records: proportionality, privacy, privilege and protection.

Electronic Discovery

Instructor: [Bradley C. Nahrstadt](#)

Somewhere between 93 and 97 percent of all information is now created electronically. Over the past several years, the federal courts have responded by requiring parties to investigate and produce electronically stored information (ESI).

This comprehensive 1.5-hour program covers the definition of ESI, how to find and preserve ESI, litigation hold recommendations regarding ESI, and the practical application and necessity of ‘clawback’ agreements with respect to ESI discovery. This program also discusses what to do when opposing counsel is uncooperative with respect to the production of ESI; the sanctions for spoliation of electronic evidence; how to get the client, counsel and IT department involved in e-discovery; and the recent emphasis on the issues of e-discovery proportionality and cost-shifting. In addition, it provides a primer on the critical cases and federal statutes with respect to e-discovery, including Federal Rules of Civil Procedure 16, 26, 34 and 37 and the Zubulake opinions.

Expert Witnesses: Selection, Communications and Disclosure

Instructor: [Bradley C. Nahrstadt](#)

It is a rare case today that does not utilize expert witnesses in some way. This one-hour program is designed to provide practical advice regarding the selection and disclosure of expert witnesses and their opinions. Topics covered include: how to select the proper expert, communicating with your experts, providing the proper material to your experts for review, and disclosing your experts’ opinions – and the bases for those opinions – in accordance with state and federal law.

The Impact of HIPAA and Other Privacy Acts

Instructor: [Jeremy T. Burton](#)

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) can be a headache for attorneys in their pursuit of medical information in a case. This one-hour program covers the definition of “protected health information” (PHI) covered by the Act and how to obtain PHI. It discusses the four main methods of obtaining medical records: (1) obtaining consent, (2) proof of notice and time, (3) notice of request for court order and (4) court order, including their relative strengths and weaknesses. The program also provides examples of other laws protecting medical information such as the Illinois Mental Health and Development Disabilities Confidentiality Act.

Construction Coverage Law Update

Instructor: [Thomas J. Pontikis](#)

Illinois law can turn a standard construction litigation case into a nightmare for a construction company facing an injured employee and a poorly drafted contract. Standard construction contracts in Illinois often contain provisions requiring a subcontractor to name a general contractor as an additional insured and otherwise promise to defend and indemnify the general contractor. Additionally, Illinois form construction contracts frequently contain a Kotecki waiver provision, which prevents the employer of an injured worker from limiting liability to its workers' compensation liability.

This one-hour program discusses the Illinois Contribution Act and Illinois law on joint and several liability, and provides valuable advice on how a contractor can protect itself.

How to Comply with Illinois Unfair Claims Practices Act

Instructor: [Bradley C. Nahrstadt](#)

In Illinois, insurance is heavily regulated. The Illinois Insurance Code regulates the manner in which insurance companies must handle claims, among other things. Portions of the code deal specifically with those activities that are deemed to be “unfair claims practices”.

This one-hour program is designed to highlight the various provisions of the Illinois Unfair Claims Practices Act and to provide insurance companies and their claims representatives with concrete advice on how to comply with the Act.

Pros and Cons of Joint Defense Groups

Instructor: [Bradley C. Nahrstadt](#)

When multiple parties are sued in the same action, and those parties can work together as part of a common defense, it may be advantageous to form a joint defense group. This one-hour program addresses some of the common – and not so common – issues surrounding joint defense groups, including the pros and cons of creating joint defense groups and issues to be covered in a joint defense agreement. Other topics addressed by this program include conflicts of interest, ethical concerns associated with participation in a joint defense group, and maintaining the joint defense privilege.

New Illinois Rules of Professional Conduct

Instructor: [Brigid E. Kennedy \(Ethics Credit\)](#)

In January 2010, the Illinois Supreme Court adopted new rules of ethics for all lawyers practicing in the state. Several of the new rules have not appeared in any previously enacted code, including rules covering the duty of attorneys to prospective clients before a formal attorney-client relationship is formed (1.18) and an attorney's duties upon receipt of inadvertently submitted documents (4.4(b)). Other rules have been updated, including those pertaining to conflicts of interest and situations in which an organization is the client. Rules on lawyer advertising also have been changed.

This one-hour program addresses the new rules, the updated rules, and what you need to know about the revised commentary to the rules.

Litigation Hold Letters

Instructor: [Bradley C. Nahrstadt](#)

Because of the importance of electronic data to all forms of business, electronic discovery is an important part of nearly every case. Therefore, it is important to understand your duties with respect to identifying and preserving electronic data in anticipation of litigation, the case law governing the duty to identify and preserve electronic information, and the various means available to preserve the data at the beginning of a lawsuit.

This one-hour program discusses each of these issues. Specific topics that are covered include sanctions for spoliation of electronic evidence, methods of preserving electronic evidence, use of litigation hold letters, preserving your opponent's data, preserving your client's data, and demonstrating that preservation efforts were committed in “good faith”.

Preparing for Mediation

Instructor: Steven J. Roeder

It is true that you cannot lose the mediation. That, however, does not mean that there cannot be participants who believe that they “lost”. While there is no “result” unless the mediated case actually settles, participants often overlook key steps that they should consider to ensure they understand the dynamics of mediation. Participants also should consider how best to prepare in order to take full advantage of the cost-effectiveness and confidentiality provided by mediation vs. litigation in the courts.

This one-hour program discusses best practices that will enhance the opportunities to resolve litigation matters to the greater satisfaction of the client.

Medicare Set Asides

Instructor: Jeremy T. Burton

With the passage of new Medicare law, the government now has imposed reporting and reimbursement requirements that will ensure Medicare can recover money paid for medical damages to plaintiffs who also are Medicare recipients. The new law imposes mandatory reporting requirements on insurers funding settlements, and imposes harsh penalties on insurers, defendants, plaintiffs and, potentially, attorneys that fail to comply.

This 1.5-hour program covers the impact of the new Medicare law on your practice. It explains the new law, including who must report, how to report, what to report, when to report and why to report. It also provides resources to aid you in resolving cases with opposing counsel and the Centers for Medicare Services.

Patent Damages

Instructor: David L. Applegate

United States patent law is as old as the nation. Current patent code has been in force since the 1950s, offering two primary roads to financial recovery: lost profits and a “reasonable royalty.” For the past seven years, Congress has proposed but not adopted new patent damages amendments that aim to correct what many critics see as unjustified awards under the present system. This detailed and informative program provides an overview of the patent damages statutory framework, the most important case law developments, the damages provisions of the Patent Reform Act of 2011, and “false marking” law. It is available in one-hour, 1.5-hour and 2-hour formats.

A U.S. Patent Law Primer

Instructor: David L. Applegate

This easily adaptable program covers the basics as well as the more esoteric aspects of the U.S. Patent Law system. Topics covered include what constitutes a patentable invention, how to obtain a patent, and how to protect your patent rights throughout the process. This program utilizes written materials and easily understandable PowerPoint slides to provide real-world examples. It can be formatted to fit timeframes from 30 minutes up to two hours, and can be tailored for presentation to a wide range of sophisticated audiences, from technology and risk managers who need to know only the broad conceptual framework of the U.S. patent system, to general counsel, engineering managers and inventor/employees who seek a greater understanding of the costs and rewards of patenting and protecting inventions and discoveries.

Premises Liability

Instructors: Bradley C. Nahrstadt and Jeremy T. Burton

Slip and fall accidents injure millions of people each year. This one-hour program provides a broad overview of the steps necessary to successfully resolve a premises liability case. These include case assessment and intake; a 50-state survey of governing laws; changes in premises liability laws moving away from the licensee/invitee/trespasser distinction toward the more modern guest/trespasser distinction; potential sources of recovery; sample discovery; insurance coverage issues; medical liens; proving damages; common legal defenses; and advising a business in a premises liability case.

Spoliation

Instructors: Bradley C. Nahrstadt and Michael C. Bruck

In the last 30 years, there have been approximately 45 cases decided by the Illinois courts regarding the issue of spoliation of evidence. Remedies for spoliation can run the gamut from a spoliation jury instruction to discovery sanctions precluding the admissibility of evidence, or even, in some instances, dismissal of the action. With such a wide range of remedies, litigants may experience difficulty in accurately predicting what, if any, outcomes could result when an Illinois court is faced with the issue of spoliation of evidence.

This one-hour program seeks to bring some clarity to the topic and provides a chronological overview of the Illinois case law dealing with spoliation of evidence.

Williams Montgomery & John, Ltd.

David L. Applegate

Mr. Applegate represents individual entrepreneurs, start-up companies, established mid-sized businesses and Fortune 500 companies in intellectual property and commercial cases involving claims of patent, trademark and copyright infringement, theft of trade secrets, and licensing disputes. He has taken many cases to verdict as lead trial counsel in both jury and bench trials nationwide and has argued appeals in the Illinois appellate courts and the U.S. Court of Appeals for the Seventh and Federal Circuits. Mr. Applegate has been named by his peers for inclusion in Illinois Leading Lawyers for both commercial and intellectual property litigation.

Michael C. Bruck

Mr. Bruck has successfully resolved hundreds of lawsuits involving claims of legal malpractice, accountant's malpractice, agent's and broker's errors and omissions, and a variety of other financial malpractice claims. He also has litigated and tried business and intellectual property disputes involving trade libel, copyright infringement and trademark infringement claims. In addition, Mr. Bruck is an established advisor and litigator in the insurance area. He has been selected by his peers for inclusion in Illinois Leading Lawyers for commercial litigation, professional malpractice defense law, and insurance coverage and reinsurance law.

Jeremy T. Burton

Mr. Burton focuses his practice on defending product liability, premises liability, insurance coverage and commercial matters in state and federal courts. He has particular experience representing settling plaintiffs and defendants with respect to the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA), including shepherding parties through disputes with the Centers for Medicare Services (CMS). Mr. Burton also has litigated product liability cases involving a variety of products, and has extensive experience in disputes involving claims of negligence, unsafe construction practices and failure to provide a safe worksite.

Peter C. John

Mr. John is widely recognized as an outstanding trial attorney in major litigation matters and has been listed in Best Lawyers in America for business litigation since 1995. He has extensive jury trial, bench trial and arbitration experience for major commercial disputes over the last 30 years, including class action defense, attorney malpractice and construction matters. He has tried cases involving a variety of claims, including breach of contract, construction claims, economic coercion claims, property damage and legal malpractice. Mr. John recently won a decision of "not guilty" for Siemens Westinghouse in the three-and-a-half-year arbitration in Washington, D.C. of a construction lawsuit brought by Athens Generating involving claims for tens of millions of dollars.

Brigid E. Kennedy

Ms. Kennedy has litigated, mediated and arbitrated commercial litigation, professional liability and coverage cases in courts and ADR forums throughout the country. She has represented law firms through the country in malpractice cases involving patents, securities fraud, conspiracy, RICO, lender liability, medical malpractice and wrongful death. She also has arbitrated complex commercial matters involving power plant construction and complex insurance coverage matters. Ms. Kennedy has been selected by her peers for inclusion in Illinois Leading Lawyers for commercial litigation, insurance, insurance coverage and reinsurance, and professional malpractice defense law.

Bradley C. Nahrstadt

Mr. Nahrstadt defends clients in product liability, professional liability, premises liability, insurance coverage, and bad faith and commercial matters in state and federal courts around the country. In the product liability area, he has served as regional counsel for a national testing laboratory, a large consumer of welding rods, one of the country's leading optical manufacturers, and a major brake and clutch manufacturer. His experience also includes the representation of trucking companies in large-scale accident cases, general contractors and subcontractors in suits alleging unsafe construction practices, and a wide variety of professionals in malpractice or misfeasance cases. Mr. Nahrstadt has been selected by his peers for inclusion in Illinois Leading Lawyers for product liability defense and medical malpractice defense.

Thomas J. Pontikis

Mr. Pontikis has extensive experience in product liability and mass and toxic tort matters, including asbestos, breast implant and welding rod litigation. In the commercial litigation area, he has litigated numerous cases involving breach of contract claims, real estate disputes and corporate dissolutions. He also regularly consults with a variety of business enterprises on general corporate transactions and other matters, as well as on resolution of internal disputes. Mr. Pontikis has been selected by his peers for inclusion in Illinois Leading Lawyers for commercial litigation, product liability, personal injury defense and insurance coverage/reinsurance.

Steven J. Roeder

Mr. Roeder's client representations have involved a broad range of issues, including breach of fiduciary duty; wrongful dissolution of corporations and partnerships; corporate oppression; trade secrets; restrictive covenants; contracts; common law, securities, commodities and consumer fraud; real estate disputes; and substantive bankruptcy matters. He also has experience defending nationwide and statewide class actions on behalf of corporations and brokerage firms. In addition, he has prosecuted and defended claims of professional negligence and misconduct against accountants, attorneys and other professionals. Mr. Roeder has been named by his peers for inclusion in Illinois Leading Lawyers for commercial litigation, class actions and product liability law.

For detailed biographies on the program instructors, please go to www.willmont.com.

WILLIAMS MONTGOMERY & JOHN LTD
A FIRM OF TRIAL LAWYERS

Clients call upon the trial lawyers of Williams Montgomery & John to vigorously and diligently represent their interests before judges and juries in high-stakes litigation matters across the United States. Few law firms have more experience appearing before juries in complex litigation than Williams Montgomery & John. We take great pride in the fact that we are A Firm of Trial Lawyers.

Dedication, passion and the courage to try lawsuits are the three qualities that distinguish Williams Montgomery & John from other business litigation law firms. We are willing and able to take any case to verdict and our opponents know it. Our lawyers tackle challenging cases across a variety of industries and obtain successful results for our clients in federal and state courts across the country.

Clients trust Williams Montgomery & John to handle their sophisticated business and financial disputes and to devise and execute a litigation plan that will achieve their goals. For more than 40 years we have delivered fearless and effective advocacy for our clients.

Willis Tower
233 S. Wacker Drive, Suite 6100
Chicago, Illinois 60606-6359
Phone: 312.433.3200 Fax: 312.630.8500
www.willmont.com