

Current Issues in
Pharmaceutical
Litigation & Policy



Sponsored by the ABA Section Of Litigation Products Liability Committee

Friday, November 14, 2008
Pfizer Inc
150 East 42nd Street
New York, NY 10017

The ABA Section of Litigation Products Liability Committee

2008 PHARMACEUTICAL REGIONAL CLE WORKSHOP: CURRENT ISSUES IN PHARMACEUTICAL LAW AND POLICY

November 14, 2008

Pfizer Inc
150 East 42nd St.
New York, New York

PROGRAM AGENDA

- 8:30am - 9:00am **Registration and Continental Breakfast**
- 9:00am - 9:15am **Welcome - Program Chairs**
- 9:15am - 10:30am ***Third Party Payor Litigation Battles***

Pharmaceutical manufacturers are increasingly finding themselves in a multi-front war when defending their products. The battlegrounds include not only product liability litigation, but also government investigations, consumer class actions, securities litigation, and – with increasing frequency – litigation by third party payors seeking refunds of the amounts paid to cover prescriptions for their insureds and plan beneficiaries. Often times, the exposure in these third party payor cases can equal or even exceed the exposure in the underlying product liability cases. Traditionally, third party payors have been limited to subrogation actions where they would have to step into the shoes, and prove the case of each of their individual insureds/beneficiaries. However, lawyers for third party payors have devised a number of creative legal theories in an attempt to bypass subrogation and sue directly on their own behalf for economic loss. This panel will explore the legal theories and defenses upon which the third party payor battles are being waged, with a lively discussion from experienced practitioners in those battles.

Moderator: Steven Glickstein, Esq., Kaye Scholer LLP

Panelists: Carolyn E. Bassani, Esq., Pfizer Inc.
John Beisner, Esq., O'Melveny & Myers LLP
Richard W. Cohen, Esq., Lowey Dannenberg Cohen & Hart, P.C.
Kimberly R. West, Esq., Wallace, Jordan, Ratliff & Brandt LLC

10:30am - 11:45am *Current Issues In Pharmaceutical Labels*

This panel will explore the current regulatory structure regarding FDA labels, recent trends and developments involving boxed warnings, issues that arise in US litigation with respect to foreign labels for the same medications, and DTC advertising.

Moderator: Alan R. Vickery, Esq., Sedgwick, Detert, Moran & Arnold LLP

Panelists: Heather Haworth, Esq., Varian
Robert J. Gordon, Esq., Weitz & Luxenberg P.C.
Bryan A. Troyer, Esq., Thompson Hine
Christopher B. Wren, Esq., Bristol Myers Squibb

**** Networking Lunch****

1:30pm - 2:45pm *Current Privacy Issues in Pharmaceutical Litigation*

This panel will explore the intersection between privacy rights and product liability litigation, such as the present state of HIPAA laws; whether and when attorneys can speak with plaintiffs' physicians; issues surrounding the disclosure of information about other claimants; and adverse event reporting.

Moderator: Phoebe A. Wilkinson, Esq., Chadbourne & Parke LLP

Panelists: Kelly Evans, Esq., Snell & Wilmer L.L.P.
Donald A. Migliori, Esq., Motley Rice LLC
Megan S. Wynne, Esq., I-Flow Corporation

2:45pm - 4:00pm *Understanding and Using the Science Behind Your Case:
A Primer on Epidemiology for Litigators*

Feel like you need a statistics degree to understand the medical studies at issue in your case? Puzzled by the concepts of "relative risk" or "attributable risk ratio"? Struggling with specific or general causation analysis? We all know that in pharmaceutical litigation we live or die by how scientific studies are used in our cases. Our panel of experts will provide you some of the fundamentals for understanding pharmacoepidemiology and – more importantly – will help you develop and advance your scientific case.

Moderator: Samuel L. Felker, Esq., Bass Berry & Sims, PLC

Panelists: J. Dominic Campodonico, Esq., Gordon & Reese LLP
Jayne Conroy, Esq., Hanly & Conroy
Dr. Sean Hennessey, Penn Medical Center
Malini Moorthy, Esq., Pfizer Inc

**** Break****

4:15pm - 5:30pm ***Dietary Supplements: Are They Drugs or Are They Foods?***

This panel will focus on emerging legal issues related to a growing industry: dietary supplements. These products are regulated like foods but can have biologically active ingredients, similar in some cases to pharmacologically active drugs. The panelists will discuss the regulatory history of dietary supplements as well as the current litigation risks for the dietary supplement industry.

Moderator: Joanne M. Gray, Esq., Goodwin Procter LLP

Panelists: Anthony L. Young, Esq., Kleinfeld Kaplan & Becker LLP
Paul D. Rheinhold, Esq., Rheingold, Valet, Rheingold et al.
Stanley Soper, Nutraceutical International Corporation
Daron Watts, Esq., Sidley & Austin LLP

*Please join us at Troutman Sanders LLP for cocktails following the program.
The Chrysler Building
405 Lexington Avenue (at 42nd Street)
New York, New York*

Special Thanks to Our Sponsors:

Pfizer Inc
Bass Berry & Sims PLC
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Program Co-Chairs:

Samuel L. Felker
Bass Berry & Sims PLC
Nashville, TN

Phoebe A. Wilkinson
Chadbourne & Parke LLP
New York, NY

Products Liability Committee Co-Chairs:

Jerry G. Bradford
Alcon Laboratories, Inc.
Fort Worth, TX

Daniel S. Wittenberg
Snell & Wilmer LLP
Denver, CO

Products Liability Committee Co-Chairs:

James C. Barton, Jr.
Johnston Barton Proctor & Rose, LLP
Birmingham, AL

Lori B. Leskin
Kaye Scholer LLP
New York, NY

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**2008 PHARMACEUTICAL REGIONAL CLE WORKSHOP:
CURRENT ISSUES IN PHARMACEUTICAL LAW AND POLICY**

Registration deadline is November 12, 2008.

Register online by visiting: http://www.abanet.org/litigation/programs/cle_111407.html or return this form with payment to Samuel L. Felker, Bass, Berry & Sims PLC, 315 Deaderick St., Suite 2700, Nashville, TN 37238, (615) 742-2719 (fax). Checks for attendance and course materials should be made payable to the American Bar Association. Credit cards are accepted for on-line registrations only.

Course materials will be emailed to you. If you prefer to receive a CD of the course materials, please check here.

Name _____
Affiliation _____
Address _____
City _____ State _____ Zip Code _____
Telephone _____ Fax _____
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The information submitted on this registration form will be used only to create an attendance list for the Current Issues in Pharmaceutical Litigation & Policy Regional CLE Workshop.

Registration Information

\$125 (Section of Litigation members)
\$170 (Non-Section members)

- I will attend the meeting and my check for \$_____.00 is enclosed.
- I am unable to attend the meeting, but please email me the course materials to the above address, at a cost of \$55.00, a check for which is enclosed.

Requests for refunds must be made in writing and received in the ABA Section of Litigation office **on or before November 12, 2008**. You may fax your request to Jennifer Langdon at (312) 988-6234. There will be an administrative fee of \$50 deducted from the refund. **After November 12, 2008, cancellation requests will not be processed.** Refund requests will be processed 30 days after the meeting concludes.

For additional information about the program, please contact Program Co-chairs:
Samuel L. Felker, (615) 742-6219, sfelker@bassberry.com
Phoebe A. Wilkinson, (212) 408-1157, pwilkinson@chadbourne.com

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