TOXIC TORTS AND ENVIRONMENTAL LAW SEMINAR

March 8–9, 2007

JW Marriott New Orleans

New Orleans, Louisiana

Presented by DRI’s Toxic Torts and Environmental Law Committee in conjunction with American Chemistry Council

Who Should Attend

• Defense attorneys
• In-house counsel
• Risk managers
• Insurance claims professionals
• Insurance brokers
Toxic tort and environmental tort claims continue to be among the most challenging for the defense practitioner due to the evolution of new strategies and theories created by the plaintiffs’ bar. This seminar brings a distinguished and experienced faculty together to provide critical information about cutting-edge legal, forensic and scientific issues involved in toxic tort litigation and environmental law. The program includes multiple presentations designed to transform abstract propositions into practical, “how to” information, provide insight into scientific principles and disciplines, and sharpen the discovery and trial practice skills of both experienced and beginning practitioners. Please join us in New Orleans and learn from nationally recognized lawyers and scientists as you network with colleagues and industry professionals from across the country.

Daniel W. McGrath
Program Chair

Lise T. Spacapan
Program Vice Chair

Barbara L. Arras
Committee Chair

Linda M. Lawson
Law Institute

What You Will Learn

- The interaction of law and science in toxic tort cases
- Understanding chemical fingerprinting and vapor intrusion
- New technologies for courtroom presentations
- Jury selection and voir dire techniques
- Recently expanding theories of toxic tort liability
- New toxic tort consumer product and class action cases
THURSDAY, MARCH 8, 2007

7:00 a.m.  Registration and Continental Breakfast

7:00 a.m.  First-Time Attendees Breakfast

7:00 a.m.  Cappuccino Bar
Sponsored by

10:05 a.m.  Refreshment Break
Sponsored by

10:20 a.m.  The Relationship between Toxic Tort Suits and Environmental Regulation and Legislation—Why an Environmental Lawyer Needs to Be on Your Toxic Tort Team
Ms. Mattox will discuss the interface of toxic tort laws, statutes and regulations that form the basis of environmental law. Clean-up standards, reporting and notification requirements, and the differences between responsibility for government-required site remediation efforts and tort liability will be explored.
SHARON M. MATTOX, VINSON & ELKINS LLP, HOUSTON, TEXAS
11:10 a.m. **PREPARING AND DEFENDING THE CORPORATION IN THE FRCP 30(b)(6) DEPOSITION — LESSONS FROM BICE V. THE DOW CHEMICAL CO.**

Depositions to determine corporate knowledge are typically conducted pursuant to Federal Rule 30(b)(6) or the state law equivalent. In order to comply with this rule, corporations need to be aware of certain procedural requirements. Failure to provide an appropriately prepared witness pursuant to this rule can lead to severe sanctions. This presentation will discuss these requirements, identify best practices, and review how these issues played out in the *Bice v. The Dow Chemical Co.* litigation pending in Alabama state court.

DUNCAN A. STUART, The Dow Chemical Company, Midland, Michigan

12:00 p.m. **NETWORKING LUNCHEON (included in registration fee)**

Sponsored by JENNER & BLOCK

1:30 p.m. **CHEMICAL FATE, TRANSPORT AND RISK ASSESSMENT**

Exposure assessment is a key component that scientists use to determine risk. Identifying how individuals or property are exposed to chemical constituents released into the environment is an important step when assessing exposure. Dr. Sager will address how chemical constituents move through our environment and identify the factors that influence their migration. Other aspects of exposure, such as how the fate and transport processes for chemicals influence the identification of exposure pathways and exposure routes, will also be explained.

SHAWN L. SAGER, PH.D., ARCADIS Risk & Associated Services Group, Raleigh, North Carolina

2:20 p.m. **ADDRESSING THE VAPOR-INTRUSION PATHWAY — THE CHALLENGES AND IMPLICATIONS**

Recent revelations about vapor intrusion (migration of volatile chemicals from the subsurface into buildings and other structures) have led scientists to reconsider this pathway as a potential route of exposure to toxic substances. Since the EPA issued its *Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Ground Water and Soils* in November 2002, many states have issued or plan to issue guidance documents and/or regulations to assist investigators searching for pathways. Ms. Plantz will provide an overview of this subject and the scientific principles one must consider when evaluating vapor intrusion pathways.

GINA M. PLANTZ, NewFields Environmental Forensics Practice LLC, Rockland, Massachusetts

3:10 p.m. **REFRESHMENT BREAK**

Sponsored by WOBBLE CARLYLE OUR LAWYERS MEAN BUSINESS
3:25 p.m. **Chemical Forensics, Finger Printing and Modeling**

Virtually all environmental litigation poses questions about the nature, source and fate of contaminants in the environment, and legal responsibility for same. Conventional chemistry often does not accurately answer these critical site assessment issues. Dr. Uhler will explain “chemical fingerprinting,” the cornerstone of a rapidly evolving field of forensic science. This presentation will explore recent advancements in chemical measurement science; understanding the processes that define the nature, source and fate of chemicals; techniques for investigating site operation history; and how forensic scientists use chemical fingerprinting to answer the fundamental issues arising in environmental litigation.

**Allen D. Uhler, Ph.D., NewFields Environmental Forensics Practice LLC, Rockland, Massachusetts**

4:15 p.m. **Through a Glass Darkly — The Historian as Expert Witness and the Role of Historical Research in Mass Tort Cases**

Dr. Marmor will reflect on the difficulties that trial attorneys encounter when endeavoring to explain past events, along with their relationship to the present, to often ill-prepared juries. A comprehensive analysis of historical events is critical to providing the jury with an accurate context in which to consider more recent scientific developments and advancements. Dr. Marmor will share his experiences as a witness in cases involving scientific uncertainty, shifting public opinion, conflicting evidence and high stakes.

**Theodore R. Marmor, Ph.D., Yale University, New Haven, Connecticut**

5:05 p.m. **Toxic Torts and Environmental Law Committee Meeting and Specialized Litigation Group Meetings (open to all)**

6:00 p.m. **Networking Reception**
9:30 a.m.  **Occupational Exposures Associated with Petroleum-Derived Solvents Containing Trace Levels of Benzene**

Dr. Williams will discuss her recent research addressing the historical benzene content of various commercial products and potential benzene exposures in the workplace to petroleum-derived solvents containing trace amounts of benzene. Her findings are based on a thorough review of the published and unpublished literature, including a number of health hazard evaluations performed by NIOSH and information submitted to OSHA during the benzene rulemaking process, as well as the results of exposure remodeling under several hypothetical scenarios.

Pamela R.D. Williams, ScD, ChemRisk Inc., Boulder, Colorado

10:20 a.m.  **Refreshment Break**

10:35 a.m.  **Trace Benzene Litigation — The New Frontier in Consumer Product and Class Action Cases**

A corporate counsel and outside trial attorney will offer their perspectives on present and future challenges to industries defending both traditional and new forms of trace benzene litigation. Ms. Lampkin-Isabel and Mr. Mayer will address strategies employed by plaintiffs’ counsel in selecting venues, targeting products and industries, proving exposure, calculating dose and asserting the etiology and end points of diseases. They will provide object lessons learned in recent trials alleging disease from claimed trace benzene exposures in a variety of circumstances, and the theories, strategies and defenses that have proven effective in this litigation.

Robin Lampkin-Isabel, Ashland Inc., Columbus, Ohio
Kevin C. Mayer, Steptoe & Johnson LLP, Los Angeles, California

11:30 a.m.  **Lunch (on your own)**

1:00 p.m.  **Can Law Corrupt Science? Can Science Corrupt Law? What Occurs When Scientists and Lawyers Interact?**

This session will address the testing and research that appears to have been created to qualify certain theories and opinions for admission under Daubert or similar state standards. The responses of the scientific, academic and legal communities to these efforts and what these activities mean for litigation and for science will be discussed.

William G. Childs, Western New England College School of Law, Springfield, Massachusetts
1:50 p.m. Standards for Judging the Quality and Reliability of Science

Dr. Henry will discuss the standards and practices currently used to evaluate the quality of scientific research and testing. She will identify how such standards and practices assist judging the quality of research and testing, regardless of why, how, where or who conducts or sponsors the research. The roles of the federal government and scientific community in developing and expanding the use of such standards and practices, and the convergence of those in regulatory and non-regulatory arenas will be analyzed.

Carol J. Henry, Ph.D., DABT, American Chemistry Council, Arlington, Virginia

2:40 p.m. Refreshment Break

2:55 p.m. Ethical Issues in Joint Defense and Joint Counsel Relationships

Ms. Mann will discuss ethical issues confronting the practitioner when engaging in joint defense or joint counsel arrangements in toxic tort and environmental law matters.

Dara D. Mann, Faegre & Benson LLP, Minneapolis, Minnesota

3:55 p.m. Toxic Tort and Environmental Case Law, Statutory and Regulatory Update — Do Practitioners Still Confront a Runaway Train?

Ms. Nemer will review recent activities and developments in toxic tort and environmental litigation, as well as recent statutory and regulatory enactments.

Laura Bancroft Nemer, Thompson Hine LLP, Cleveland, Ohio

4:45 p.m. Adjourn

DRI is the international membership organization of all lawyers involved in the defense of civil litigation. As such, DRI wishes to express its strong commitment to the goal of diversity in its membership. Our member attorneys conduct business throughout the United States and around the world, and DRI values highly the perspectives and varied experiences that are found only in a diverse membership. The promotion and retention of a diverse membership is essential to the success of our organization as a whole as well as our respective professional pursuits. Diversity brings to our organization a broader and richer environment, which produces creative thinking and solutions. As such, DRI embraces and encourages diversity in all aspects of its activities. DRI is committed to creating and maintaining a culture that supports and promotes diversity in its organization.
CLE Accreditation
This seminar has been approved for MCLE credit by the State Bar of California in the amount of 13 hours, including 1 hour of ethics credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. Credit availability and requirements vary from state to state; please check our website at www.dri.org for credit information for your state.

Registration
The registration fee is $645 for members and those who join DRI when registering and $775 for non-members. The registration fee includes CD-ROM course materials, continental breakfasts, refreshment breaks, luncheon on Thursday and networking receptions. If you wish to have your name appear on the registration list distributed at the conference and receive the CD-ROM course materials in advance, DRI must receive your registration by February 16, 2007 (please allow 10 days for processing). Registrations received after February 16, 2007 will be processed on-site.

Special Discounts
The first and second registrations from the same firm or company are subject to the fees outlined above. The registration fee for additional registrants from the same firm or company is $595, regardless of membership status. All registrations must be received at the same time to receive the discount.

Refund Policy
The registration fee is fully refundable for cancellations received on or before February 16, 2007. Cancellations received after February 16 and on or before February 23, 2007 will receive a refund, less a $50 processing fee. Cancellations made after February 23 will not receive a refund, but the course materials on CD-ROM and a $100 certificate good for any DRI seminar within the next 12 months will be issued. All cancellations and requests for refunds must be made in writing. Fax to DRI’s Accounting Department at 312.795.0747. All refunds will be mailed within four weeks after the date of the conference. Substitutions may be made at any time without charge and must be submitted in writing.
Course Materials

In order to better serve and satisfy the numerous requests from our membership, DRI will mail the course materials to all registrants in CD-ROM format 12 days in advance of the seminar. You can order additional copies by checking the appropriate box on the registration form on the back of this brochure or ordering online at www.dri.org.

Supplemental Materials

Recommended supplemental material for this seminar is *Trial Tactics Defense Litigation Manual* from DRI’s Defense Library Series. Order your copy by checking the appropriate box on the registration form on the back of this brochure. You can also view the entire list of DRI publications offerings and make purchases online at www.dri.org.

Hotel Accommodations

A limited number of discounted hotel rooms have been made available at the JW Marriott New Orleans, 614 Canal Street, New Orleans, Louisiana 70130. For reservations, contact the hotel directly at 504.525.6500. Please mention DRI’s Toxic Torts and Environmental Law Seminar to take advantage of the group rate of $219 Single/Double. The hotel block is limited and rooms and rates are available on a first-come, first-served basis. You must make reservations by February 6, 2007 to be eligible for the group rate. Requests for reservations made after February 6 are subject to room and rate availability.

Travel Discounts

DRI offers discounted meeting fares on various major air carriers for DRI’s Toxic Torts and Environmental Law Seminar attendees. To receive these discounts, please contact Hobson Travel Ltd., DRI’s official travel provider at 800.538.7464. As always, to obtain the lowest available fares, early booking is recommended.

The taping or recording of DRI seminars is prohibited without the written permission of DRI.

Speakers and times may be subject to last-minute changes.

DRI policy provides there will be no group functions sponsored by others in connection with its seminars.
BARBARA L. ARRAS is a partner in the New Orleans office of Phelps Dunbar LLP. She specializes in causation defenses in chemical exposure, asbestos, benzene and other toxic tort cases. Her areas of expertise also include complex litigation and class actions. She has more than 25 years of experience in both in-house and private practice. Ms. Arras is currently Chair of DRI’s Toxic Torts and Environmental Law Committee.

WILLIAM G. CHILDs is assistant professor of law at the Western New England College School of Law in Springfield, Massachusetts. He served as Chief Articles Editor for the Texas Law Review. Professor Childs also practiced mass tort and intellectual property litigation at a Washington, D.C. law firm. His research and teaching interests include mass torts, amusement ride safety, intellectual property and the intersection of law and science. He serves as Editor of TortsProf Blog.

PETER A. DRUCKER serves as litigation counsel in Bridgewater, New Jersey, for ICI Group Services Inc., part of ICI Group, a worldwide specialty chemical manufacturer. Mr. Drucker manages toxic tort, product liability, environmental, anti-trust, commercial and insurance coverage litigation for ICI. He previously served as Assistant General Counsel-Litigation for Asarco Inc., a mining and metals refining company. Mr. Drucker is a frequent speaker on toxic tort and environmental law issues and is a DRI member.

RICK R. FUENTES, Ph.D., is a founding partner of R&D Strategic Solutions LLC in Cumming, Georgia and has assisted attorneys in the evaluation and presentation of complex evidence, interview and selection of jurors, and analysis of jury behavior and decision making for nearly 20 years. Dr. Fuentes has worked with trial teams in hundreds of criminal and civil cases involving issues of tort, product liability, contract and professional malpractice. He utilizes surveys, focus groups, mock trials and other techniques to assist trial and in-house counsel in the development and delivery of persuasive case themes and jury messages. Dr. Fuentes assists in witness preparation, jury selection and case valuation, and he has authored numerous articles on the topics of jury behavior and decision making.

CAROL J. HENRY, Ph.D., DABT, is Vice President of Industry Performance Programs of the American Chemistry Council in Arlington, Virginia, with responsibility for the ACC’s Responsible Care, Long-Range Research Initiative, CHEMTREC and Economics and Statistics public service programs. Dr. Henry is a member and past president of the American College of Toxicology. She has served as Director of the Health and Environmental Sciences Department of the American Petroleum Institute, Associate Deputy Assistant Secretary for Science and Risk Policy at the U.S. Department of Energy and Director of the Office of Environmental Health Hazard Assessment for the California Environmental Protection Agency.

ROBIN LAMPKIN-ISABEL is Senior Group Counsel-Litigation for Ashland Inc., a diversified and global specialty chemical company. Ms. Lampkin-Isabel manages a variety of complex litigation and general corporate business matters. She is an active member of the American Chemistry Council’s Toxic Tort Litigation Group, the Central Ohio Chapter of the Association of Corporate Counsel, the National Bar Association and the ABA’s Environmental Law Section.

LINDA M. LAWSON is the managing partner of the Los Angeles law firm of Meseve Mumper & Hughes LLP. Ms. Lawson represents insurance companies in matters relating to life, health and disability coverage and ERISA. She also represents management in employment-related litigation involving wrongful termination, sexual harassment and employment discrimination. Ms. Lawson currently serves on DRI’s Law Institute. She is also past chair of DRI’s Life, Health and Disability Committee where she was named “Outstanding Committee Chair.”
Dara D. Mann is a partner in the Minneapolis office of Faegre & Benson LLP. Her practice encompasses product liability, toxic tort, environmental and agribusiness litigated matters. Ms. Mann represents manufacturers throughout the U.S. in both federal and state courts and has defended suits involving agricultural products, food products, pharmaceuticals, medical devices and machine tools. She is admitted to practice in the state and federal courts of Minnesota and Georgia, and is a member of DRI and the Product Liability Advisory Council.

Theodore R. Marmor, Ph.D., is a professor in both the School of Management and the Department of Political Science at Yale University in New Haven, Connecticut. Dr. Marmor is the past director of the Robert Wood Johnson Foundation’s postdoctoral program in health policy and social science studies at Yale. He also serves as an adjunct professor at Yale Law School and teaches health law. Dr. Marmor’s principal interest of scholarship is the contemporary welfare state in the U.S. and other nations. He serves on several editorial and advisory boards, is a peer review editor of scholarly journals and has authored several books, articles and treatises in such areas as welfare, public health, health care, Social Security and other matters.

Sharon M. Mattox is a partner of Vinson & Elkins LLP in Houston. Ms. Mattox has a broad-based background in environmental litigation at both the trial and appellate levels. She practices in water rights, endangered species, hazardous waste, remediation and natural resource damages claims. Ms. Mattox works extensively on environmental issues affecting land use, counsels clients on large public infrastructure projects and manages environmental aspects of real estate transactions and developments.

Kevin C. Mayer is a partner and trial attorney in the Los Angeles office of Steptoe & Johnson LLP. Mr. Mayer’s practice focuses on toxic tort, product liability, environmental and OSHA litigation and complex commercial matters. Mr. Mayer is admitted to practice in numerous federal and state courts and was designated as one of the “Best Lawyers in America” and a Southern California “Super Lawyer” in the toxic tort arena. Mr. Mayer is a member of DRI’s Toxic Torts and Environmental Law Committee.

Daniel W. McGrath is a partner in the Chicago office of Hinshaw & Culbertson LLP. His practice includes product liability, toxic tort, environmental and commercial litigation matters, as well as mass tort and multi-district litigation. Mr. McGrath is admitted to practice before the U.S. District Courts of Illinois. He is a member of the Trial Bar of the U.S. District Court for the Northern District of Illinois and is an active member of DRI’s Toxic Torts and Environmental Law Committee. Mr. McGrath is the Program Chair for this seminar.

Laura Bancroft Nemer is a partner in the Cleveland office of Thompson Hine LLP. She focuses her practice in product liability, mass tort and business litigation matters, and has defended numerous cases with industry-wide allegations. Ms. Nemer is admitted to practice in the state and federal courts of Ohio and Illinois and is a member of DRI. She also contributes to legal publications, including DRI’s For The Defense.

Susan M. Pennebaker is a principal of Pennebaker Legal in Houston and consults with attorneys and their clients on the development of effective communication strategies for presentation in complex litigation. Before becoming a consultant, Ms. Pennebaker was a lawyer for several years, both in private practice and in a corporate setting. She lectures frequently on the effective uses of technology in trial as well as persuasion and communication skills.
Gina M. Plantz is a senior scientist and consultant with NewFields Environmental Forensics Practice LLC in Rockland, Massachusetts. Her areas of expertise include vapor intrusion, vapor pathway analysis and the measurement and assessment of air and soil quality. She serves on several national and state committees addressing the subject of vapor intrusion, including the Interstate Technical and Regulatory Council and ASTM Committee E50.02.06, which was formed to develop a standard to assess vapor intrusion as it relates to property transactions. Ms. Plantz also serves as a peer review editor for a number of journals and has lectured extensively on vapor intrusion and environmental chemistry.

Shawn L. Sager, Ph.D., is a principal scientist with ARCADIS Risk & Associated Services Group in Raleigh, North Carolina. Dr. Sager has more than 20 years experience evaluating hazardous waste and conducting environmental risk assessments. She has performed, managed or reviewed risk assessments for more than 400 contaminated sites located in 30 states, of which more than 50 were Superfund sites. Dr. Sager’s assessments have included evaluations of human health and impacts on the environment brought about by past disposal or spills of gasoline, petroleum hydrocarbons, inorganic and organic chemicals and other substances.

Lise T. Spacapan is a partner in Jenner & Block LLP’s Chicago office. She is Co-Chair of the firm’s Products Liability and Mass Tort Defense Practice and also practices in the commercial litigation area. Ms. Spacapan has handled complex litigation matters in jurisdictions throughout the country and has appeared in jury and bench trials in courts in Illinois, Missouri, Michigan, Louisiana and Colorado. She has developed scientific defenses and successfully brought Daubert and Frye motions in cases involving pharmaceuticals and chemicals. Ms. Spacapan is the Program Vice Chair of this seminar.

Duncan A. Stuart is Assistant General Counsel for The Dow Chemical Company in Midland, Michigan. Mr. Stuart manages the Litigation Section of Dow’s Legal Department. Mr. Stuart previously was Dow’s Senior Managing Counsel for the Affiliated Companies and Insurance and served as Vice President, Secretary and General Counsel for Union Carbide Corporation from 2001 to 2005. Mr. Stuart was a partner in an Anchorage law firm where he focused on commercial and complex litigation before joining Dow in 1990.

Allen D. Uhler, Ph.D., is senior scientist with NewFields Environmental Forensics Practice LLC in Rockland, Massachusetts. Dr. Uhler has conducted numerous assessments of the source and fate of chemicals at refineries and other industrial facilities. He has studied the occurrence, behavior and fate of coal-derived wastes at coke works, manufactured gas plants, wood-treating facilities and other sites, and assessed and measured a variety of industrial chemicals in the environment. Dr. Uhler has published extensively regarding the occurrence, distribution and fate of hydrocarbons and other industrial chemicals in the environment, serves on the editorial board of Environmental Forensics and is a charter member of ASTM Committee E50.06, Forensic Environmental Investigations.

Pamela R.D. Williams, ScD, is principal health scientist for ChemRisk Inc. in Boulder, Colorado. Dr. Williams has multi-disciplinary training in risk assessment and decision analysis, and has particular expertise in retrospective exposure assessment and risk-benefit analysis. She has evaluated the health and safety of a number of chemicals and published approximately 75 manuscripts, book chapters and technical abstracts relating to exposure and risk-related topics. Dr. Williams is a member of the Society for Risk Analysis, International Society of Exposure Analysis, Society of Toxicology, and American Industrial Health Association. She also serves as a peer-reviewer for a number of journals.
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<td>INSURANCE COVERAGE AND PRACTICE SYMPOSIUM</td>
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<td>DRI ANNUAL MEETING</td>
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<td>COMMERCIAL LITIGATION</td>
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This application/registration form for first-time members only—all other registrants please use reverse side.

**Member Category**
- Defense Attorney — $225 USD/year
- Government Attorney — $160 USD/year
- Young Lawyer* — $130 USD/year (admitted to the Bar for 5 years or less)
- Law Student — $20 USD/year

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**Date of Birth (Month/Day/Year)**

**Name**

**Name as you would like it to appear on badge**

**Company/Firm/Law School**

**Address**

**City**

**State/Province**

**Zip/Postal Code**

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**Fax**

**E-Mail**

**Is this the first time you are attending this DRI seminar?**
- Yes
- No

**Number of attorneys in your firm**

**Primary area of practice**

**Admitted to the Bar in**

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<th>State/Province</th>
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**Referred by**

DRI is committed to the principle of diversity in its membership and leadership. Accordingly, applicants are invited, at their option, to indicate which one of the following may best describe them:

- African American
- Asian American
- Hispanic origin
- Native American
- White
- Other

I am a member of a state or local defense organization.  
- Yes
- No

**Name of organization**

To the extent that I engage in personal injury litigation, I DO NOT, for the most part, represent plaintiffs. I have read the above and hereby make application for individual membership.

**Signature**

**Date**

All applications must be signed and dated.

### Registration/Application Fees

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<th>Description</th>
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**Total:**

*Those eligible for Young Lawyer membership will receive a certificate for one free seminar when they join.*

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Toxic Torts

2007-0210B
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