

28th ANNUAL SPRING CLE MEETING

# HOT TOPICS IN TOXIC TORTS & ENVIRONMENTAL LAW

April 4–6, 2019  
Hotel Del Coronado  
Coronado, CA

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**Sponsored by**  
ABA Tort Trial & Insurance Practice Section  
Toxic Torts & Environmental Law Committee



**CLE** This conference is expected to qualify for 9.33 CLE credit hours (including 0.75 ethics hour) in 60-minute states and 11.20 credit hours (including 0.90 ethics hour) in 50-minute states



# GREETINGS

Dear Friends,

Shake off the winter blues and join the Toxic Torts and Environmental Law Committee in sunny San Diego April 4–6, 2019 for the 28th Annual Spring CLE Meeting. We are so pleased to be at the Hotel del Coronado this year to reconnect with old friends and develop new friendships with our colleagues in plaintiff and defense bars across the country.

We will learn from a diverse group of leading trial lawyers and experts in toxic torts and environmental law, as well as in-house and corporate counsel for RiverStone, Starr Insurance, Shell Oil Company, Great American Insurance Group, Alliant Insurance Services, Tyson Foods and Volkswagen.

The experienced faculty will address technical and legal issues impacting the future of asbestos litigation, climate change, water and soil contamination, personal jurisdiction, science-based causation, bias faced by female attorneys, Legionella litigation, food and beverage class actions and ethics. You will also learn what it takes to earn the trust and confidence of in-house and corporate counsel.

CLE programs are on Friday and Saturday, with a joint welcome reception with attendees of the 2019 TIPS Emerging Issues in Motor Vehicle Product Liability Litigation Conference Thursday evening. You will have plenty of time to explore and enjoy the amenities of the iconic Hotel del Coronado. Bring your family and enjoy the hotel's fantastic dining and cocktails, world-class spa and plenty of fun in the sun on the beach, including surfing and paddleboard lessons.

This is one conference you do not want to miss! MAKE YOUR RESERVATIONS EARLY BECAUSE SPACE IS LIMITED!

For more information about the TTEL Committee, please visit our website at <http://ambar.org/tipsttel>

We look forward to seeing you and your family at the Hotel del Coronado!

**Jonathan M. Lively, Esq.**

Chair, TTEL Committee  
*Segal McCambridge Singer & Mahoney*  
Chicago, IL

**Randi P. Mueller, Esq.**

Program Co-Chair, TTEL Committee  
*Page, Mannino, Peresich & McDermott*  
Biloxi, MS

**Jeffrey M. Pypcznski, Esq.**

Program Co-Chair, TTEL Committee  
*Porzio, Bromberg & Newman*  
Morristown, NJ

# AGENDA

## THURSDAY, APRIL 4, 2019

3:00 PM – 6:00 PM

**REGISTRATION**

6:00 PM – 8:00 PM

**WELCOME RECEPTION**

Joint reception with attendees of the 2019 TIPS Emerging Issues in Motor Vehicle Product Liability Litigation Conference

Sponsored by: **Exponent**

8:00 PM

**DINNER ON YOUR OWN [DUTCH-TREAT VICE-CHAIR DINNER]**

## FRIDAY, APRIL 5, 2019

7:00 AM – 3:00 PM

**REGISTRATION**

7:15 AM – 7:45 AM

**CONTINENTAL BREAKFAST**

Sponsored by: **Rawle & Henderson**

7:45 AM – 7:55 AM

**WELCOME & PROGRAM OVERVIEW**

**Jonathan M. Lively**, *Segal McCambridge*, Chicago, IL  
Chair, Toxic Torts & Environmental Law Committee

**Roy Alan Cohen**, *Porzio, Bromberg & Newman*, Morristown, NJ  
Chair, ABA Tort Trial & Insurance Practice Section

7:55 AM – 8:00 AM

**OPENING REMARKS**

**Randi P. Mueller**, *Page, Mannino, Peresich & McDermott*, Biloxi, MS  
Program Co-Chair, Toxic Torts & Environmental Law Committee  
Spring Conference

**Jeffrey M. Pypcznski**, *Porzio, Bromberg & Newman*, Morristown, NJ  
Program Co-Chair, Toxic Torts & Environmental Law Committee  
Spring Conference

8:00 AM – 9:00 AM

**LOOKING INTO THE CHRYSOTILE BALL, THE FUTURE OF ASBESTOS LITIGATION**

The landscape of asbestos litigation continues to change, but it is as robust as ever with thousands of new claims filed each year. Cases with traditional direct exposure to workers are becoming less frequent as indirect and take-home fact patterns are now commonplace. Talc miners and manufacturers of talc products are suddenly front and center. The science of genetics now offers new defenses. Experienced attorneys and toxicologist will discuss what is happening now and where this litigation is heading.

**MODERATOR:** **Jason A. Botticelli**, *Goldberg Segalla*, Buffalo, NY

**SPEAKERS:** **Ania Urban**, *Cardno ChemRisk*, San Francisco, CA  
**Katie Benton**, *Gordon & Rees Scully Mansukhani*, Los Angeles, CA  
**Jim Kramer**, *Simmons Hanly Conroy*, New York, NY  
**Erin Voyik**, *RiverStone*, Manchester, NH

9:00 AM – 10:15 AM

**FLOODS, FIRES & HURRICANES, OH MY!—LITIGATING CLIMATE CHANGE**

Wild Fires in the West, hurricanes in the Southeast and flooding on our coasts and throughout the interior are now common occurrences. The resulting damage to property, the environment and loss of life has generated huge litigation across the country. Experienced plaintiff, defense, and government attorneys will discuss these disasters that may be connected to climate change and how the litigation has evolved.

**MODERATOR:** **Barbara Bourgeois Ormsby**, *Deutsch Kerrigan*, New Orleans, LA



**SPEAKERS:** **Lexi J. Hazam**, *Lieff, Cabraser, Heimann & Bernstein*, San Francisco, CA  
**Suma Peesapati**, *Bureau of Environmental Justice, California Department of Justice*, San Diego, CA  
**Ronald G. Peresich**, *Page, Mannino, Peresich & McDermott*, Biloxi, MS  
**Jeffrey D. Talbert**, *Preti Flaherty*, Portland, ME

10:15 AM – 10:30 AM

### **BREAK**

Sponsored by: **Gori, Julian & Associates**

10:30 AM – 11:15 AM

### **PFAS IN THE WATER AND SOIL! WHY SHOULD YOU CARE?**

Perfluoroalkyl substances (PFAS) have been used for decades in hundreds of industrial applications and consumer products such as carpeting, apparels, upholstery, food paper wrappings, fire-fighting foams and metal plating. They are now being found at low levels in the environment (water and soil) and a study by the Center for Disease Control is finding them in blood samples of the general population. The health effects, if any, of these substances are contested. Litigation and regulation has already begun across the country while industry has removed many of these substances from their processes and developed alternatives. This panel of scientists, regulators and litigators will explain the current landscape and opine on where it is headed.

**MODERATOR:** **Debra A. Kaden**, *Ramboll*, Boston, MA

**SPEAKERS:** **Antonia Calafat, PhD**, *Centers for Disease Control and Prevention*, Atlanta, GA  
**Sarah T. Hansel**, *Berezofsky Law Group*, Chery Hill, NJ  
**Elizabeth (Betsy) Behl**, *Health and Ecological Criteria Division, U.S. Environmental Protection Agency*, Washington, DC  
**Adam Baas**, *DLA Piper*, San Francisco, CA

11:15 AM – 12:15 PM

### **THE PLAINTIFF LAWYER'S PERSPECTIVE**

This panel of experienced counsel representing plaintiffs in toxic tort and environmental law cases will provide their insight on new and emerging torts and effective use of the most recent scientific and medical developments. The panel will also discuss some of the latest developments and strategies regarding personal jurisdiction, environmental contamination, preemption as well as new and emerging issues and torts.

**MODERATOR:** **Sara M. Salger**, *Gori, Julian & Associates*, Edwardsville, IL

**SPEAKERS:** **Gale D. Pearson**, *Pearson, Randall & Schumacher*, St. Paul, MN  
**Deborah Dixon**, *Gomez Trial Attorneys*, San Diego, CA  
**Aaron Heckaman**, *Bailey Cowan Heckaman*, Houston, TX

12:15 PM – 12:25 PM

### **PUBLIC SERVICE PROJECT PRESENTATION: VOICES FOR CHILDREN**

The mission of Voices for Children is to transform the lives of abused children by providing them with volunteer Court Appointed Special Advocates (CASAs). Voices for Children believes that every child deserves a safe and permanent home and, to that end, provides trained CASA volunteers to every abused, abandoned, or neglected child who needs one, and advocates to improve the lives of children in the foster care system. Please help the TTEL Committee raise much needed funds to support the important work Voices for Children is doing for San Diego children.

12:25 PM – 1:25 PM

### **LUNCH**

Sponsored by: **Ramboll**

1:25 PM – 2:25 PM

### **IN-HOUSE AND INSURANCE COUNSEL PANEL**

This panel is comprised of in-house toxic tort and environmental law counsel and carrier representatives who will discuss expectations of outside counsel, getting hired and the dreaded, what might get you fired. You will hear their perspective on how best they team with lawyers from across the country in defending claims to achieve the desired results.



**MODERATOR:** Anissa M. Mediger, *Briggs and Morgan*, Minneapolis, MN

**SPEAKERS:** Jim Ballard, *LandCare*, San Diego, CA  
Adena S. Edwards, *Starr Insurance*, New York, NY  
Marcus A. Carter, *Shell Oil Company*, Houston, TX  
Gregory A. Kelder, *Great American Insurance Group*, Philadelphia, PA

2:25 PM – 3:15 PM

**THE CAUSATION LIFE CYCLE: HOW SOME NOVEL CAUSATION THEORIES BECOME MAINSTREAM (AND OTHERS DON'T)**

This panel will explore the trajectory of causation theories, which often begin as far-fetched and little-understood correlations that are eventually either disproved or confirmed through greater experience, keener observation or better science. We will trace the history of causation understanding regarding a sampling of alleged toxics that have produced litigation in the past, and discuss when the scientific connection between exposure and injury becomes sufficient to support good-faith claims. We will consider whether courts perform adequately as gatekeepers when there is scientific disagreement on causation, and search for the tipping point when scientific confidence in causation matures, and plaintiffs, defendants and judges reach a common understanding of general causation.

**MODERATOR:** Sarina Kaplan, *The Lavin Firm*, Philadelphia, PA

**SPEAKERS:** Aimee H. Wagstaff, *Andrus Wagstaff*, Denver, CO  
Howard Sandler, *Sandler Occupational Medicine Associates*, Melville, NY  
Brendan K. Collins, *Ballard Spahr*, Philadelphia, PA

3:15 PM – 5:30 PM

**AFTERNOON ACTIVITIES (ON YOUR OWN)**

Spa, Pool, Golf, Surfing lessons and other activities available through the Hotel Del Coronado Concierge

5:30 PM – 6:30 PM

**WOMEN'S NETWORKING COCKTAIL RECEPTION**

Sponsored by: Riley Safer Holmes & Cancila  
Segal McCambridge Singer & Mahoney

6:30 PM – 7:30 PM

**COCKTAIL RECEPTION—ALL ATTENDEES WELCOME**

Sponsored by: RHP Risk Management  
Decision Quest

7:30 PM

**DINNER ON YOUR OWN**

## SATURDAY, APRIL 6, 2019

7:30 AM – 8:30 AM

**CONTINENTAL BREAKFAST**

TTEL COMMITTEE MEETING (all attendees welcome)

8:30 AM – 9:30 AM

**WOMEN LAWYERS: ARE WE DISRUPTING THE BIAS FEMALE ATTORNEYS EXPERIENCE INSIDE AND OUTSIDE THE COURTROOM ENOUGH?**

As the recent report from the ABA found, women lawyers continue to face both implicit and explicit bias in the practice of law. This panel will address the numerous issues women attorneys face inside and outside the courtroom by opposing counsel, juries, judges, and sometimes even clients. Join us for a candid conversation to discuss how to be an integral part of the advancement of women in the profession.

**MODERATOR:** Julie Y. Park, *Morrison & Foerster*, San Diego, CA

**SPEAKERS:** Janice P. Brown, *Brown Law Group*, San Diego, CA  
Deborah Smith, *Lewis Brisbois Bisgaard & Smith LLP*, San Francisco, CA  
Marygrace Schaffer, *DecisionQuest*, Minneapolis, MN  
Jennifer L. Alesio, *Simmons Hanly Conroy*, San Francisco, CA



9:30 AM – 9:45 AM

### **BREAK**

Sponsored by: **Shook, Hardy & Bacon**

9:45 AM – 10:30 AM

### **RECENT DEVELOPMENTS ON LEGIONELLA**

Outbreaks of Legionnaires' Disease frequently make headline news and result in damage to reputation, loss of future business, and costly litigation. Navigating the complexities of water management plans to reduce the risk of Legionella growth and compliance with state and federal regulations are challenges facing today's facility owners, property managers, health care communities and building engineers. Hear from experienced legal counsel, a human health risk assessor, and an insurance professional examining the process of a Legionella claim.

**MODERATOR:** **Tracie L. Rose**, *RHP Risk Management*, Chicago, IL

**SPEAKERS:** **Dr. Frank Pagone**, *RHP Risk Management*, Chicago, IL  
**Christopher Alviggi**, *Alliant Insurance Services, Inc.*, Englishtown, New Jersey  
**Kevin C. Mayer**, *Crowell & Moring*, San Francisco & Los Angeles, CA

10:30 AM – 11:30 AM

### **RECENT TRENDS IN FOOD AND BEVERAGE LABELING LITIGATION**

As food, beverage, and pet food class action filings continue to spike, these speakers will take a broad look at the types of cases being filed, the key legal issues currently in play, and recent developments impacting litigation of these high exposure cases.

**Moderator:** **Amir Nassihi**, *Shook, Hardy & Bacon*, San Francisco, CA

**Speakers:** **Timothy G. Blood**, *Blood Hurst & O'Reardon*, San Diego, CA  
**Marc Shelley**, *Global Director of Litigation, Anheuser-Busch InBev*, New York, NY  
**Amy P. Lally**, *Sidley & Austin*, Los Angeles, CA  
**Carolyn G. Scrafford, Ph.D., M.P.H.**, *Exponent*, Washington, D.C.  
**Jane Duke**, *VP & Associate General Counsel, Tyson Foods*, Fayetteville, AR  
**Greg Wu**, *Shook Hardy & Bacon*, Kansas City, MO

11:30 AM – 12:15 PM  
**ETHICS**

### **ETHICAL CONSIDERATIONS IN LITIGATING TOXIC TORT CASES**

This panel will address best practices and ethics in negotiations in toxic torts and environmental litigation. In particular, the panelists will discuss ethical issues practitioners confront in protecting privileges, discovery, depositions, and negotiating settlements.

**MODERATOR:** **Afigo I. Okpewho-Fadahunsi**, *Tanenbaum Keale*, Newark, NJ

**SPEAKERS:** **Brenda Godfrey**, *Corporate Counsel, Volkswagen Group of America*, Herndon, VA  
**Stan Goos**, *Harris Beach*, New York, NY  
**Steven Skikos**, *Skikos, Crawford, Skikos, & Joseph*, San Francisco, CA

12:15 PM – 12:30 PM

### **CLOSING REMARKS**

**Randi P. Mueller**, *Page Mannino Peresich & McDermott*, Biloxi, MS  
Program Co-Chair, Toxic Torts & Environmental Law Committee  
Spring Conference

**Jeffrey M. Pypcznski**, *Porzio, Bromberg & Newman*, Morristown, NJ  
Program Co-Chair, Toxic Torts & Environmental Law Committee  
Spring Conference

# REGISTRATION FORM

ABA TORT TRIAL & INSURANCE PRACTICE SECTION (TIPS)

28<sup>TH</sup> ANNUAL TOXIC TORTS & ENVIRONMENTAL LAW SPRING CONFERENCE

Hotel del Coronado • Coronado, CA • April 4–6, 2019

**REGISTRATION DEADLINE: MARCH 22, 2019**

## 1. REGISTRANT: *(Please print or type one form per person; photocopy this form for additional registrants)*

LAST NAME FIRST NAME MI

NAME AS YOU WISH IT TO APPEAR ON YOUR BADGE

FIRM/COMPANY WHAT STATE(S) ARE YOU LICENSED IN?

ADDRESS

CITY STATE ZIP

(AREA CODE) BUSINESS TELEPHONE FACSIMILE

E-MAIL ADDRESS

Are you attending your first TIPS National Conference?  Yes  No

I am a member of the ABA and wish to join the Tort Trial & Insurance Practice Section and I have enclosed a separate check for \$50 made payable to the American Bar Association.

## 2. REGISTRATION FEES:

	On or Before	After		
	<u>3/22/19</u>	<u>3/22/19</u>	QTY	Total
TIPS Member	\$450	\$475	_____	_____
ABA Member	\$550	\$575	_____	_____
General Attendee	\$650	\$675	_____	_____
Government Employee	\$425	\$450	_____	_____
Law Student	\$200	\$225	_____	_____

## 3. MATERIALS

I will not be attending the 28th Annual Toxic Torts & Environmental Law Spring Conference and wish to order program materials link for \$150.

## 4. TOTAL PAYMENT

TOTAL \_\_\_\_\_

## 5. PAYMENT INFORMATION

Check (made payable to the ABA)  American Express  MasterCard  VISA

CREDIT CARD NUMBER EXPIRATION DATE

SIGNATURE

## THREE WAYS TO REGISTER

### 1. ONLINE:

[https://www.americanbar.org/groups/tort\\_trial\\_insurance\\_practice/](https://www.americanbar.org/groups/tort_trial_insurance_practice/)

### 2. MAIL:

American Bar Association  
Tort Trial & Insurance Practice Section  
**28<sup>th</sup> Annual Toxic Torts & Environmental Law Spring Conference**  
Attn: Service Center/Meeting Event Code: IL1904TTEL  
321 North Clark Street, Floor 19  
Chicago, IL 60654

### 3. SECURE FAX (312) 988-5850

On-site registrants must pay the program fee plus an additional \$25 by check or credit card.

# GENERAL INFORMATION

Registration Deadline: Friday, March 22, 2019

Hotel Deadline: Tuesday, March 12, 2019

## ADVANCE REGISTRATION

Visit the TIPS website to register at [www.americanbar.org/tips](http://www.americanbar.org/tips) or complete the registration form included in this brochure for the "28th Annual Toxic Torts & Environmental Law Conference" to be held at the beautiful Hotel del Coronado in Coronado, California.

The registration fee includes admission to the program, course materials, continental breakfast, breaks, and reception. If you wish to have your name appear on the pre-registration list distributed at the program, ALL registration forms must be received no later than the registration deadline of March 22, 2019. Registration reservations will be confirmed in writing within 10 business days.

## ON-SITE REGISTRATION

On-site registrations will be accepted if space is available. Call Juel Jones at 312/988-5597 or email [juel.jones@americanbar.org](mailto:juel.jones@americanbar.org), 72 hours prior to the program to confirm that space is available. On-site registrants must pay the program fee by credit card or check made payable to the American Bar Association. A \$25 fee will be charged to individuals registering on-site.

## CANCELLATION POLICY

No registration fee refunds will be granted for cancellations received after **March 22, 2019**. In order to receive a refund (less a \$50 administrative fee), the ABA must receive written cancellation by **March 22, 2019**. Registrants who are unable to attend may send a substitute or will receive course materials in lieu of a refund.

## HOTEL INFORMATION

For Reservations call (619) 435-6611 or (800) 75 THE DEL. Refer to the **ABA Tort, Trial & Insurance Practice Section 2019 Motor Vehicle & Toxic Tort**.

A limited number of rooms have been blocked for program registrants of the **28th Annual Spring CLE Meeting Toxic Torts & Environmental Law Conference** at the Hotel del Coronado 1500 Orange Ave, Coronado, CA 92118 for a hotel room rate of \$279.00 single/double plus 11.56% tax. For reservations, please call the hotel directly at (619) 435-6611. The room block will be held until exhausted or until **Tuesday, March 12, 2019 at 5:00 p.m. (CST)**. After the meeting specified hotel deadline, reservations will be confirmed based on availability. Please refer to the **ABA Tort, Trial & Insurance Practice Section 2019 Motor Vehicle & Toxic Tort**, when calling the hotel to make reservations. Hotel check-in is 4:00 p.m. and checkout is 12:00 p.m. All reservations must be guaranteed by credit card or deposit check for one night's room and tax. Individuals with guaranteed reservations must cancel their reservations 48 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge.

## ABA NEGOTIATED AIRFARE DISCOUNTS – AVAILABLE ONLINE!

With ABA Egencia\*, you can automatically obtain ABA negotiated discounts for travel to the ABA Meetings. ABA Egencia enables you to purchase the best airfare at the time of booking, by providing you with the ability to search for and compare fares from virtually every airline serving the destination.

Reservations with ABA Egencia can be made online or offline. For offline reservations, call (877) 833-6285. ABA Egencia is available online via ABA Travel Services\*. ABA airfare discounts on some carriers may also be obtained by purchasing your tickets under the ABA Discount Codes directly from the airline or through your travel agent.

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Click **All Search Options** and enter Online Discount

Code: **ZFX6888030** in the **Promotions and Certificates**

Box. Not for Lesiure Travel

**Delta Airlines:** Call 800.328.1111

ABA File Global Meeting Code: **NMS9P**

Discount available at: **www.delta.com**

Click **Advance Search** and enter Online Meeting Code:

**NMP56** in the **Meeting Event Code**.

**Southwest tickets** can be booked on ABA Egencia.

If not booking via ABA Egencia you can book via [www.swabiz.com](http://www.swabiz.com) and use ABA SWABIZ Company ID **99422890**.

**\*A Travel Profile is required when booking airline reservations with ABA Egencia.**

## CLE INFORMATION

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, CT, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, ME, MN, MS, MO, MP, MT, NH, NJ, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 9.33 CLE credit hours including 0.75 ethics hours in 60-minute states and 11.20 CLE including 0.90 ethics hours in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit [https://www.americanbar.org/cle/mandatory\\_cle.html](https://www.americanbar.org/cle/mandatory_cle.html) or contact Juel Jones at [juel.jones@americanbar.org](mailto:juel.jones@americanbar.org) or 312-988-5597.

## MEMBERSHIP INFORMATION

For more information about membership in the ABA or the Tort Trial & Insurance Practice Section (TIPS), please visit us online at [www.abanet.org/tips/memberapp.html](http://www.abanet.org/tips/memberapp.html) or call 800/ 285-2221. Membership in TIPS includes three industry-leading periodicals, discounts of up to 20% on many TIPS CLE programs, and other career and practice-enhancing benefits. Join TIPS today!

## PERSONS WITH DISABILITIES

Services for persons with disabilities are available. If special arrangements are required for an individual to attend this program, please notify Juel Jones at either (312) 988-5597 or at [juel.jones@americanbar.org](mailto:juel.jones@americanbar.org) promptly. Reasonable notice is requested.

## GET CONNECTED WITH TIPS!

Information on this and other TIPS CLE programs is available online at [www.ambar.org/tips](http://www.ambar.org/tips). Visit us and get connected!

## SCHOLARSHIPS AVAILABLE!

ATTENTION TIPS MEMBERS: Scholarships are available for all Section activities, courtesy of the TIPS Scholarship Fund. The Fund, established with the International Risk Management Institute ("IRMI") and supported by subscriptions to the IRMI CGL Reporter, is intended to increase membership involvement in TIPS' activities by minorities, solo and small firm practitioners, government attorneys, women, and young lawyers by providing financial support to those who would otherwise be unable to participate. For programs with tuition cost over \$500, qualifying attorneys will receive at least a 50% reduction in the course fee(s). To request an application or receive additional information, visit [www.ambar.org/tips/scholarship.html](http://www.ambar.org/tips/scholarship.html) or contact Jeane Emily DuBose at [Jeane.DuBose@americanbar.org](mailto:Jeane.DuBose@americanbar.org) 312/988-5673 for more information and an application.

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[ambar.org/tips](http://ambar.org/tips)

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AMERICAN BAR ASSOCIATION  
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321 North Clark Street  
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