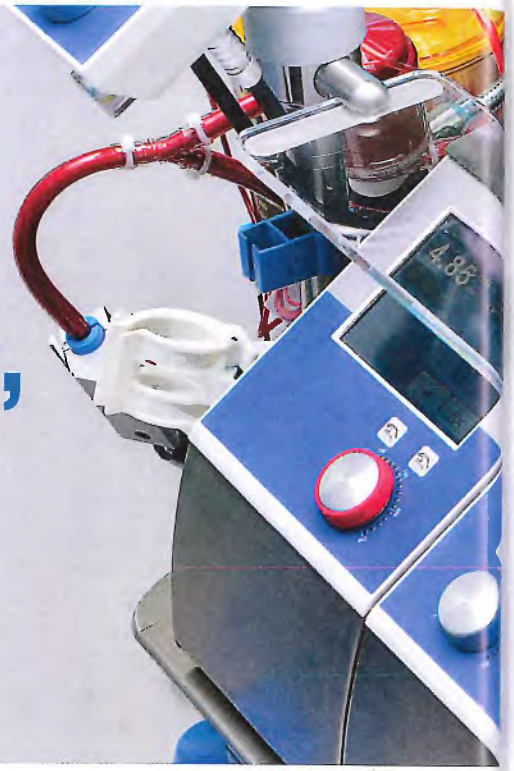
From the Chair

Offering Immediate, Tangible Benefits



By J. Carter Thompson, Jr.

A glimpse at all the exciting projects that have made Drug and Medical Device one of the flagship committees of DRI.

This issue of *For The Defense* highlights novel issues that are affecting the drug and medical device industry. The featured articles address:

- Express preemption in the context of clinical trials;
- Exclusion of 510(k) evidence;
- Alternative design in product liability actions;
- Pleading in RICO enterprise matters;
- Logic and fallacies; and
- Biosimilars.

Cutting edge defenses, new developments in evidence, science and logic—all unique "takes" on the topics and matters that keep our clients and practitioners up at night. Many thanks to our Publications Chair Vivian Quinn of Nixon Peabody and Publications Vice Chair Archie Reeves of McDowell Knight Roedder for leading our efforts for this dedicated issue.

As I begin my second year as chair of the Drug and Medical Device Committee (DMD), I am grateful for the opportunities we have had to work together to make a difference. Most DRI members whom I speak with are aware of the preeminent seminar we put on every year, but some are unaware of the other important matters in which our committee is involved. The DMD is offering a number of exciting ways for its members to obtain immediate, tangible benefits from involvement in our committee. Some are tried and true, while others are new:

2016 Seminar: Our seminar in Chicago in May 2016 was a roaring success. Whether it was due to our return to the Windy City or the fabulous program, we had a terrific turnout. Preliminary reports indicate that the "Ted Talks" by deans of the drug and device defense bar were very well received. Our program also included presentations by 10 in-house counsel, cutting edge presentations on important topics such as 3D Printing, the First Amendment and off-

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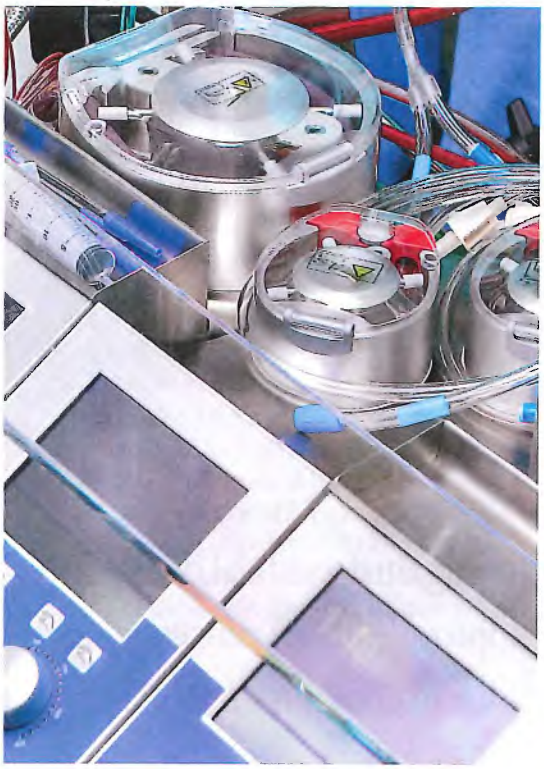

label promotion, biosimilars, and mock closing arguments by senior trial lawyers from different parts of the country. The Honorable Richard Posner of the U.S. Seventh Circuit Court of Appeals wrapped up our program with an interesting discussion of his unique approach to cases on appeal and, in particular, ethical issues in class actions. In addition to a wonderful program, nine companies held counsel meetings, and our in-house counsel group had a lively discussion at their in-house counsel only breakout on Thursday afternoon. We wrapped up the meeting on Friday afternoon and evening with our committee service project, at which a dedicated group of in-house and outside counsel prepared and served dinner at the downtown Chicago Ronald McDonald House.

Young Lawyer Primer: Our committee will again host a Young Lawyer Primer at Sidley & Austin in Chicago September 20, 2016. Bruce Parker of Venable LLP is the chair, and Kennedy Simpson is vice chair. This is a one day seminar for attorneys in their first through third years on the basics of the practice in this area. This seminar has a limit of 100 attendees, so please go online and register now.

DRI Annual Meeting: By now, I hope you have all made plans to join DMD leadership at DRI's Annual Meeting in Boston on October 19–23, 2016. In addition to many fine main stage programs and exciting networking opportunities, our committee will sponsor a special presentation Friday entitled "Trolling for Cases in the Twenty-first Century: The Plaintiffs' Bar Goes Digital," followed by a committee meeting immediately thereafter. Many thanks to our committee's Annual Meeting Chair Beth Rose for putting together the program.

2017 Seminar: As incredible as it seems, the planning committee for our seminar on May 11–12, 2017, in New Orleans has completed the first draft of the program. Under the steady hands of Program Chair Gail Rodgers and Vice Program Chair Sheila Boston, the topics and most of our presenters for the 2017 seminar have already been decided. Nevertheless, there are a number of other ways to become involved. First, put it on your calendar and make plans to attend. Second, join our marketing efforts and assist in spreading the word through electronic media and otherwise. If you are interested, contact Jackie Sheridan. Third, volunteer to work on the service project associated with our seminar. In addition to the opportunity to meet our committee leadership, I think you will find this to be personally rewarding. If you are interested, contact Jim Craven. Fourth, in-house counsel should plan to attend our roundtable discussion for in-house counsel only. For the last several years, our in-house attendees have raved about the value that they have received from sharing ideas and experiences with their in-house colleagues. If you are an in-house attorney with a drug or device company, please contact Jeff Kruse for more information. Fifth, young lawyers should plan to be involved with our annual young lawyers blockbuster session and associated activities. Thanks to Justin Rice and Zoha Barkeshli for coordinating these efforts at our 2016 seminar and to Evan Holden and Heather Howard for coordinating this session for the 2017 seminar.

SLGs: Our specialized litigation groups (SLGs) offer a quick, easy, and important way to be involved in the work of the committee. These groups are gathering and communicating regularly. One of their responsibilities is generating content for newsletters and speaking opportunities. In fact, some SLGs have successfully recommended speakers and topics for the main stage program at our seminar. The SLGs (along with their chairs) are 1) Plaintiff's Regulatory Experts (Amanda Kitts); 2) Defense Against Governmental Actions (Peter Pappas); 3) Class Actions and Multi-Party Litigation (Steven Rosenheck and Jeff Holmstrand); 4) Complex Medicine and Experts (Erik Snapp); and 5) Defense of Generic and Over-the-Counter Manufacturers (Joe Cohen). Please reach out to one of the chairs if you would like to become involved in an SLG.

Community Page: The DMD Community Page has been up and running for a couple of years. We are indebted to Kelly Jones for her tireless efforts in getting our Community Page started and introducing it to our membership. Now it is time to think about where the Community Page can take the committee. Please join Kelly, our Online Community Vice Chair Katie Fillmore, and other committee members in discussions of interest on our Community Page.

Social Media/Web Page: Under the direction of Social Media Chair Jenny Covington, DMD's Twitter account now has over 525 followers, and there are over 300 connected to our LinkedIn account. If you have not yet joined us on one or both, please do. With thanks to Web Chair Brigid Carpenter, I also encourage you to check out our new and improved presence on the DRI website. There you will find contact information for committee leaders and other information about the activities of our committee.

Webcasts and Webinars: Mike Miller is in charge of the DMD's webcasts and webinars. We have hosted several over the past year, and we are always looking for creative ideas for topics or speakers. Some of our past webcast speakers have gone on to be presenters on the main stage at our seminar.

Thanks to all of the actively involved committee members who have made the Drug and Medical Device Committee one of the flagship committees of DRI. I encourage you to contact me, Vice Chair Sara Gourley, or any of the other leaders of our committee if you would like to become more involved in our committee or have questions about opportunities for further involvement.