

IN-HOUSE COUNSEL
FORUM



SCHEDULE

1:30 Registration

2:00 Session A, Track 1—



Fox Rothschild LLP
ATTORNEYS AT LAW

2:00 Session A, Track 2—



3:00 Session B, Track 1—

GIBSON DUNN

3:00 Session B, Track 2—



4:00 Session C, Track 1—



4:00 Session C, Track 2—

Merchant & Gould
An Intellectual Property Law Firm

5:10 General Session—
CLO/GC Panel Presentation
The Inside Story on Managing
Outside Counsel and the Legal Spend—
Finding the “Value” in the Value Challenge.

6:00 Social Networking Reception

Reception Sponsor—



GRAND HYATT HOTEL
1750 WELTON ST, 38th FLOOR
DENVER, CO 80202
APRIL 16, 2014

SESSIONS & PANELS



Fox Rothschild LLP
ATTORNEYS AT LAW

SESSION A, TRACK 1 • 2:00-2:50 INS AND OUTS: COMPARING THE PERSPECTIVES OF THE IN-HOUSE AND OUTSIDE COUNSEL

Most outside counsel have never practiced law in-house. Many in-house lawyers have represented few (if any) clients beyond their own employers. Yet some attorneys have spent considerable time on both sides of the proverbial fence. Through an insightful panel discussion moderated by Fox Rothschild partner Matt Rita, corporate counsel from a variety of industries will share their views and experiences. While confirming suspicions and divulging surprises (e.g., on responsiveness, billing practices, and the importance of diversity), this presentation will not try to change anyone's mind, but rather to raise consciousness regarding the key ingredients of the modern attorney-client relationship.

Moderator: Matthew Rita, Partner, Fox Rothschild, LLP

Speakers:

- W. Aaron Bowlds, General Counsel and Secretary, The Berry Company
- Michael E. Dell, SVP, Associate General Counsel & Secretary, Coram Specialty Infusion Services
- Martin D. Litt, Exec. V.P., General Counsel & Secretary, Intrepid Potash, Inc.
- Maria Woods, SVP and General Counsel, National CineMedia, LLC
- Gary L. Armstead II, Associate General Counsel, C. Brandon Williams Corporate Counsel, ARCADIS



SESSION A, TRACK 2 • 2:00-2:50 HOW TO GET SMART ABOUT E-DISCOVERY

As companies struggle to manage exploding volumes of electronic content, legal and information systems departments have had to find new ways to comply with data discovery obligations. Increasingly, litigation and regulatory investigations require the production of a range of company documents and data. Courts have stepped up requirements to preserve and share these files, imposing multi-million dollar sanctions for noncompliance.

Join us for a practical discussion of how larger companies are handling e-discovery and the lessons smaller in-house teams can learn. Your hosts for this CLE are Adam Barr and Mark Noel from Catalyst Repository Systems' Professional Services group. Denver-based Catalyst is a pioneer in e-discovery and hosts some of the largest litigation matters in the world.

You'll learn:

- E-discovery 101 and its challenges
- Recent court decisions that open the door to cost-saving technology
- How big data is changing litigation
- Examples of how corporations are taking control of data to reduce litigation costs and risk
- What this means to business leaders

Speakers:

- Adam Barr, Vice President of Professional Services, Catalyst
- Mark Noel, Managing Director of Professional Services, Catalyst
- Shawn Cheadle, General Counsel to the Military Space line of business at Lockheed Martin Space Systems.

GIBSON DUNN

SESSION B, TRACK 1 • 3:00-3:50 FEDERAL ANTITRUST ENFORCEMENT UPDATE

Over approximately the last year, both the FTC and DOJ have seen wholesale leadership changes, and both agencies are very aggressively pursuing pro-enforcement agendas. This program overviews the agencies' recent enforcement activity with a keen focus on the implications for businesses of all types, particularly as it relates to M&A activity and joint ventures, and what to expect going forward.

Speaker: Richard H. Cunningham, Of Counsel in Gibson, Dunn & Crutcher's Denver, Colorado office.



SESSION B, TRACK 2 • 3:00-3:50 LESSONS LEARNED IN WORKFORCE MANAGEMENT FROM EXPERIENCED EMPLOYEE AND EMPLOYER REPRESENTATIVES

Given the recent intensity of employment practices litigation by administrative agencies such as the Equal Employment Opportunity Commission ("EEOC"), National Labor Relations Board ("NLRB"), and the Occupational Safety and Health Administration ("OSHA"), it is essential to periodically review and update personnel policies that are likely to draw increased scrutiny from state and federal agencies. With penalties such as attorneys' fee assessments contained in federal employment law remedies, the costs of failing to follow enforcement trends can be costly.

Join us for a panel discussion presented from the perspectives of in-house counsel, plaintiff/employee counsel, and defense/employer counsel as to lessons learned in the trenches in hot button areas, such as severance/settlement agreement language, the interactive process under the Americans with Disabilities Act ("ADA"), and workplace investigations. Hear the presenter from the plaintiff's perspective share valuable insight into pitfalls that even the most well-meaning of managers can encounter in day-to-day human resources administration, while in-house counsel and defense counsel discuss risk management practices in assessing common employee/employer relations scenarios.

Topics included in the panel discussion:

- Litigation filed by the EEOC versus CVS Pharmacy, Inc., scrutinizing common settlement and severance agreement terms
- Best Practices tips in engaging employees in the interactive process required under the ADA to analyze requests for accommodation
- "Do's and Don'ts" learned in the trenches in investigating employee complaints, such as how a poorly conducted investigation can trigger additional liability

- Workplace investigations and NLRB's view on blanket confidentiality restrictions following the NLRB's decision in Banner Health
- Handling OSHA complaints and investigations, including tips on when and where to draw the line

Speakers:

- David Hoskins, Associate General Counsel at Xcel Energy
- Jennifer Jaskolka, Senior litigation counsel at Xcel Energy
- Robin Repass, practices in Jackson Kelly's Labor and Employment Practice Group, as well as the Occupational Safety and Health Practice Group.
- Kimberlie Ryan is a nationally renowned plaintiff's employment lawyer.
- Kristin White is the co-leader of Jackson Kelly's nationwide Occupational Safety and Health Practice Group.



SESSION C, TRACK 1 • 4:00-4:50
GETTING ON THE RIGHT SIDE OF THE "V":
SUING AND BEING SUED FOR BUSINESS TORTS

Business tort lawsuits are becoming increasingly prevalent as parties and lawyers look for ways to avoid contractual limitations on damages. These tort claims are being used as a "sword" in commercial disputes to circumvent arms-length contractual agreements. This session will provide an overview on new and important case law, new legislation, legal theories and defenses, and other recent developments to help your company understand when filing a tort claim is appropriate and, if necessary, the means to defend tort litigation.

Speakers:

- LaMar F. Jost, Partner, Wheeler Trigg O'Donnell
- Annie T. Kao, Litigation Counsel, Vail Resorts Management Company

Merchant & Gould
An Intellectual Property Law Firm

SESSION C, TRACK 2 • 4:00-4:50
THE NEW WEAPON TO FIGHT TROLLS – INTER PARTES REVIEW

A new procedure for challenging patents at the Patent Office was created by the most recent overhaul of the patent laws. Created in response to problems in the old reexamination process, the new *inter partes* Review (IPR) procedure has changed the 'balance of power' between plaintiff and defendant in patent litigations and has turned out to be an effective strategy in battling patent trolls. Going into effect 1.5 years ago, the first series of cases have run their course and others are close to completion. We will discuss how the new IPR procedure has been used successfully, how it is changing the patent litigation process, and how to use the IPRs to drive early settlements with trolls and other plaintiffs. We will also discuss recent changes in the law that directly affect patent litigation against trolls regarding early summary judgment, willfulness, and discovery limitation and how to integrate IPRs to make the most of those changes.

Speakers:

- George C. Lewis, Partner Merchant & Gould
- Daniel W. McDonald, Partner Merchant & Gould

CLO/GC PANEL

THE INSIDE STORY ON MANAGING OUTSIDE COUNSEL AND THE LEGAL SPEND – FINDING THE "VALUE" IN THE VALUE CHALLENGE • 5:10-6:00

A panel of experienced CLOs/GCs will discuss strategies for establishing new and innovative relationships and approaches to using outside counsel and making the most of your legal budget. Get practical tips for what is working, what are the pitfalls, and how to truly innovate in this area.

Moderator:

- Adam M. Vela, Assistant General Counsel, Cimarex Energy Co.

Panelists:

- Fiona Arnold, former Executive Vice President & General Counsel of Vail Resorts, Inc.
- Jennifer Grafton, General Counsel and Secretary of Westmoreland Coal Company
- Adam Franklin, General Counsel at the Public Employees' Retirement Association of Colorado (Colorado PERA)
- Robert C. Blume, partner in the Denver office of Gibson, Dunn & Crutcher.



MODERATOR – ADAM VELA

Assistant General Counsel and Chief Litigation Counsel for Cimarex Energy Co. (NYSE: XEC). Since 2005, Mr. Vela has managed and resolved well over 100 Cimarex lawsuits throughout the country, including one of the largest class action reversals in Oklahoma history. Mr. Vela also regularly advises Cimarex's Board regarding risk, serves on the Audit Committee, and provides counsel across Cimarex's land, regulatory, fraud prevention, human resources, and ES&H functions.

A graduate of Wabash College (BA) and the University of Denver Sturm College of Law, Mr. Vela previously was an associate with Snell & Wilmer and Reilly Pozner.

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CLO/GC PANEL cont'd.



PANELIST – FIONA ARNOLD

Fiona is an experienced corporate attorney and executive based in Denver, Colorado.

She served as the Executive Vice President, General Counsel and Corporate Secretary of Vail Resorts, Inc. from June 2007 through November 2013 and assumed the title of Chief Compliance Officer in June, 2012. Prior to that she served the Company as Deputy General Counsel from September 2006. While at Vail Resorts, Ms. Arnold

oversaw the Company's legal, risk and compliance departments and was a member of the Company's executive committee.

From 2003-2006, Ms. Arnold served as Associate General Counsel for Western Gas Resources, Inc. in Denver, Colorado. From 2001 to 2003 Ms. Arnold was Vice President of Legal and Business Affairs and Assistant General Counsel for Crown Media Holdings, Inc. in Denver, Colorado. Ms. Arnold started her legal career in Australia in 1993 before joining the law firm of Jones Day in Dallas, Texas, in 1998 where she practiced securities and transactional law.

Ms. Arnold has served on the Boards of the Denver Metro Chamber of Commerce and the Colorado Chapter of the Association of Corporate Counsel, and currently serves on the University of Colorado Law School Dean's Advisory Council.

Ms. Arnold is a native Australian and received her Bachelor of Commerce (Accounting) from the University of Tasmania in Hobart, Australia, and her Bachelor of Laws from the University of Adelaide in Adelaide, Australia. She received a Graduate Diploma in Legal Practice from the University of South Australia in Adelaide and her Master of Laws from Southern Methodist University in Dallas, Texas.



PANELIST – JENNIFER GRAFTON

General Counsel and Secretary of Westmoreland Coal Company, a NASDAQ-global traded energy company focused on coal mining and power production. Ms. Grafton started with the company in December of 2008 and was promoted to her current role in February 2011. She has oversight responsibility for human resources, labor, insurance, legal and public relations. Ms. Grafton received her B.A. from the University of Puget Sound, her J.D. from the University of Denver Sturm College of Law and will receive her M.B.A. from the University of Michigan Ross School of Business in May 2014.



PANELIST – ADAM FRANKLIN

General Counsel at the Public Employees' Retirement Association of Colorado (Colorado PERA).

As General Counsel, Mr. Franklin is responsible for protecting the fiduciary interests of PERA's membership and oversees all aspects of the legal issues and activities that impact the Association. Prior to being appointed General Counsel, Mr. Franklin served as Senior Staff Attorney, representing

PERA in administrative hearings, leading the legal team in drafting PERA Rules, and supervising outside litigation counsel, including counsel in securities cases for the Association. Colorado PERA is the nation's 21st largest pension plan, with \$40 billion in assets under management, and serves as the pension fund for 500,000 current and retired Colorado public servants. Mr. Franklin joined Colorado PERA in 2003 and held lead responsibilities in drafting legislation for the merger of the \$3 billion Denver Public Schools Retirement System (DPSRS) as a separate member division of Colorado PERA, as well as the legislation that became Colorado Senate Bill 10-001 designed to return PERA to long-term sustainability. Mr. Franklin also held lead responsibilities for the implementation of the DPSRS merger as well as the provisions contained in Senate Bill 10-001. Mr. Franklin received his Juris Doctorate from the University of Denver and B.S.S. from Cornell College.



PANELIST – ROBERT C. BLUME

Partner in the Denver office of Gibson, Dunn & Crutcher. His practice focuses on internal investigations, compliance, business crimes, and complex civil litigation. Mr. Blume spent more than seven years as a federal prosecutor with the United States Department of Justice and earned four Special Achievement Awards from the Attorney General. Mr. Blume has been recognized by Chambers USA and Best Lawyers 2013

in the areas of Litigation: White-Collar Crime and Government Investigations and Criminal Defense: White-Collar; Commercial Litigation; and Litigation: Securities respectively.

Mr. Blume has lectured and published on many topics, including the FCPA, the False Claims Act, Internal Investigations, and Electronic Evidence. He serves as a faculty member and instructor at the National Institute of Trial Advocacy's Advanced Trial Advocacy Program in Washington, DC and has lectured at a number of law schools and universities on various legal and investigation topics.