

IADC Defense Counsel Journal Issue Explores Trending Litigation Issues and Techniques

The **International Association of Defense Counsel** (IADC) has published its second quarter 2018 Defense Counsel Journal (DCJ) with instructive articles on trending litigation issues and techniques ranging from “Lone Pine” orders to “litigation tourism” to “slack fill litigation.”

Frequently and favorably cited by courts and other legal scholarship, the DCJ is a quarterly forum for topical and scholarly writings on the law, including its development and reform, as well as on the practice of law in general, the counsel said in a release. DCJ articles are written by members of the IADC, which is a 2,500-member, invitation-only, worldwide organization that serves its members and their clients, as well as the civil justice system and the legal profession.

The current DCJ issue is available for free and without a subscription via the **IADC’s website**.

Michael Franklin Smith, IADC member and current editor for the DCJ, notes in his introductory article in the current issue that he felt compelled to write about the importance of the rule of law.

“The increasing rash of accusations of fake news by politicians from all levels of governments around the world and by media talking heads appears to be weakening the people’s confidence in the rule of law,” writes Smith, a shareholder at McAfee & Taft in Tulsa, Okla. “The work of those who enforce the rule of law helps to restore that

confidence. Standing behind those enforcers and defending the virtues of the rule of law is more vital now than it has ever been.”

Also in the spotlight in the current DCJ issue is a letter from IADC President Andrew Kopon Jr. that highlights the IADC’s active and increasing commitment to advancing diversity and inclusion within the organization.

“Organizations realize that diversity is essential to attain their desired goals,” writes Kopon, a founding member of Kopon Airdo, LLC in Chicago. “Without inclusion fostered by multiculturalism and diversity, organizations cannot evolve and assure their success. The IADC is no exception.”

The second quarter 2018 issue of the DCJ includes the following articles:

- “Supreme Court Strikes Another Blow to Litigation Tourism in Bristol-Myers Squibb”– Explores the continuing trend of rulings against the litigation tourism industry – with companies and multi-national corporations, especially, subjected to numerous, identical lawsuits filed in the same plaintiff-friendly venues regardless of the personal connections plaintiffs share with those venues – in favor of more traditional notions of fair play and substantial justice as envisioned by the U.S. Constitution.
- “Preimpact Terror Awards – A Lottery”– Analyzes preimpact terror as a recognized category of compensable tort damages, suggesting that legislatures or the highest courts of all states could enact or rule that a “one size fits all” schedule of specific amounts could be considered “reasonable compensation” for preimpact terror. This would treat equally all objectively similar situated decedents and not reward some of their survivors with the equivalent of a winning lottery ticket.
- “Considerations for Defense Counsel in Deciding to Seek, or

Not to Seek, Lone Pine Orders in Mass Tort Litigation”— Dissects “Lone Pine” orders commonly used as a hybrid trial management technique by defendants wishing to quickly dispose of frivolous toxic tort case claims involving multiple plaintiffs.

– “Not Edible, But Still Empty: Manufacturers of Non-Food Products are also Targets for Slack Fill Litigation”— Assesses the successes and failures of slack fill litigation in the context of consumer food products, describes the initial attempts to expand slack fill litigation to non-food products, and suggests actions that companies can take to avoid being the target of slack fill lawsuits.