

# 30<sup>th</sup> Annual Seminar

October 17-19, 2003

Hyatt Tamaya Resort  
New Mexico

## TRYING THE BUSINESS PUNITIVE DAMAGES CASE

Hear from the experts on the latest developments in punitive damages law, pre-trial and trial strategies, jury selection, witness and expert examination and argument.....everything you need to know about how to handle high-stakes punitive damages claims in complex business cases.

10 hrs. MCLE

Approved by the  
State Bar of  
California



ASSOCIATION OF BUSINESS TRIAL LAWYERS

abtl

*Keynote Speaker*  
**HONORABLE MING CHIN**  
ASSOCIATE JUSTICE, SUPREME COURT OF CALIFORNIA

*Opening Address*  
**WILLIAM RICHARDSON**  
GOVERNOR, NEW MEXICO

*The Punitive Damages Case - Schedule of Events with Faculty*  
*10 hrs. MCLE approved by the State Bar of California*

Friday, October 17, 2003

**3:00 – 5:00 p.m.      Joint Board Meeting**

**5:30 – 6:30 p.m.      Opening Presentation**

**CONGRESSWOMAN LINDA SANCHEZ, CALIFORNIA 39<sup>TH</sup> CONGRESSIONAL DISTRICT**  
Congresswoman Sanchez serves on the Judiciary Committee, which considers all legislation pertaining to the judiciary and to civil and criminal judicial reform, including legislation affecting civil liberties, constitutional amendments, immigration and naturalization, and unlawful restraints and monopolies. The Committee also has jurisdiction over the U.S. Department of Justice as well as federal aid to local law enforcement. Congresswoman Sanchez also serves on the Committee on Government Reform.

**CONGRESSWOMAN LORETTA SANCHEZ, CALIFORNIA 47<sup>TH</sup> CONGRESSIONAL DISTRICT**

Congresswoman Sanchez is the ranking woman on the House Armed Services Committee. She has served on the Terrorism Panel of that Committee, where she joined other members to investigate intelligence progress and terrorist threats to the United States. Congresswoman Sanchez was selected by Democratic Leader Nancy Pelosi to serve as the third-ranking Democrat on the Select Committee for Homeland Security. The Select Committee will provide oversight of the new Department of Homeland Security to assure it is working effectively and quickly.

**6:30 – 9:00 p.m.      Welcome Reception**

Saturday, October 18, 2003

**7:00 - 9:30 a.m.      Buffet Breakfast**

**8:00 - 8:05 a.m.      Welcome**

**8:00 - 8:35 a.m.      Opening Address**

**WILLIAM RICHARDSON, GOVERNOR OF NEW MEXICO**

Governor Richardson has enjoyed a very successful and fulfilling career in public service, academia and the private sector. He has met face-to-face with some of the world's most intimidating leaders. Governor Richardson negotiated the release of prisoners from Saddam Hussein, convinced corrupt foreign heads of state to step down, and oversaw and reformed one of the most challenging and unmanageable agencies in government, the Department of Energy. He has been nominated four times for the Nobel Peace Prize.

**8:40 – 10:25 a.m.      Policy Issues Associated with Punitive Damages**

**HON. CAROLYN KUHL, SUPERVISING JUDGE, LOS ANGELES SUPERIOR COURT**

Judge Kuhl is the Supervising Judge, Civil for the Los Angeles Superior Court and serves on

the California Judicial Council Task Force that is in the process of developing standard jury instructions for use throughout California (as a replacement for the currently used BAJI instructions). Judge Kuhl is a member of the Task Force subgroup addressing the punitive damages jury instructions.

**JOHN DAUM, O'MELVENY & MYERS LLP**

John Daum has substantial experience in a wide variety of complex commercial cases, including securities, antitrust, and entertainment. He is a Lecturer on Federal Courts and Federal Jurisdiction at the USC Law School. He represented Exxon in the Exxon Valdez oil spill, including a 2001 Ninth Circuit reversal of a \$5 billion punitive damages verdict.

**MICHAEL PIUZE, LAW OFFICE OF MICHAEL PIUZE**

In 1983, Michael J. Piuze obtained a \$40 million punitive damages verdict against Allstate Insurance Company. It was, by a factor of three, the largest insurance bad faith verdict ever. In 2001 and 2002 he obtained punitive damages verdicts of \$3 billion and \$28 billion against Philip Morris Inc. These are the largest individual awards ever.

**DAVID A. SCHKADE, MCCOMBS SCHOOL OF BUSINESS, UNIVERSITY OF TEXAS**

David Schkade is the Herbert D. Kelleher/MCorp Regents Professor of Business at the University of Texas, Austin. In 2001-2002 he was a visiting Senior Research Scholar in the Woodrow Wilson School of Public Affairs at Princeton University. He is co-author of *Punitive Damages: How Juries Decide* and his work on punitive damages has been cited in opinions by the U. S. Supreme Court and the California State Supreme Court.

**DELOITTE & TOUCHE**

Deloitte & Touche has a winning track record of helping counsel with challenging financial and economic issues in complex litigation and business disputes cases. A representative from Deloitte & Touche will address tax and other financial implications pertaining to punitive damages claims in complex business cases.

**10:15 a.m. – 12:15 p.m. Pre-trial & Procedural Strategies**

**HON. SHEILA B. FELL, ORANGE COUNTY SUPERIOR COURT**

Hon. Sheila Fell is a Judge of the Orange County Superior Court and an officer of the Orange County Chapter of the ABTL. Judge Fell formerly served as a Superior Court Commissioner, hearing cases involving complex issues of punitive damages. She also served as a US Bankruptcy Court Trustee where she was involved with issues of dischargeability of punitive damages.

**ANTHONY M. GLASSMAN, GLASSMAN, BROWNING, & SALTSMAN INC.**

Tony Glassman has tried over 100 cases to jury verdict, including privacy claims against the *New York Times* and *Hustler*, and in defense of *Playboy* and the tabloid *Globe*. Mr. Glassman recently prosecuted a misappropriation of performance claim on behalf of Bill Medley and Jennifer Warnes for their hit song, "(I've Had) The Time of My Life," which was resolved following a punitive damages motion for "financial condition" of the defendant.

**RAOUL KENNEDY, SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP**

Raoul D. Kennedy handles complex civil litigation at both the trial and appellate levels. He is a member of the American College of Trial Lawyers and the American Board of Trial Advocates, and is a past president of the California Academy of Appellate Lawyers. Mr. Kennedy has tried more than two dozen cases in which the plaintiff was seeking punitive damages.

**RICHARD MARSHACK, MARSHACK, SHULMAN, HUDGES & BASTIAN LLP**

Richard A. Marshack, a bankruptcy lawyer and trustee, has served on the Panel of Trustees since 1985 and as a Receiver in the Central District of California. Mr. Marshack has substantial experience in representing creditors, creditors' committees, debtors and trustees in proceedings involving punitive damages claims.

### **ALLEN RUBY, RUBY & SCHOFIELD**

Allen Ruby has tried many of Silicon Valley's best-known technology cases, most of which have involved significant punitive damages claims. In 2001, Mr. Ruby on behalf of the National Football League, defeated at trial the claims of Al Davis and the Oakland Raiders that they were owed \$1 billion, plus punitive damages, in connection with leaving the Los Angeles market.

### **HON. DANIEL WEINSTEIN (RET.), JAMS**

Hon. Daniel Weinstein (Ret.) is with JAMS in San Francisco, and was formerly a Judge of the San Francisco Superior Court. Judge Weinstein has extensive expertise in designing alternative dispute resolution processes and resolving complex multi-party cases, such as class actions, mass torts, intellectual property and professional malpractice cases, many of which include large punitive damages exposure.

**12:15 – 5:00 p.m. Free Time**

**5:30 – 6:30 p.m. Keynote Address**

### **HON. MING CHIN, ASSOCIATE JUSTICE, CALIFORNIA SUPREME COURT**

Justice Chin has authored landmark decisions in areas such as DNA, toxic tort insurance coverage, surrogate parents and hate crimes. He currently is a member of the Board of Directors of the Einstein Institute for Science, Health and the Courts and an executive committee member of the American Bar Association Appellate Judges' Conference. He is a frequent lecturer on judicial education and gave the Traynor Lecture at the Witkin Judicial College in June 1996.

**5:30 – 7:00 p.m. Native American Craft Demonstrations  
for Guests/Kids**

**6:30 – 11:00 p.m. Dinner and Entertainment for all Registered  
Attendees**

### **Sunday, October 19, 2003**

**7:00 – 9:30 a.m. Buffet Breakfast**

**8:00 – 9:10 a.m. Winning Trial Techniques:  
Opening Statement and Jury Selection**

### **HON. RONALD S. PRAGER, SAN DIEGO SUPERIOR COURT**

Since 1995, Judge Ronald S. Prager has served as a civil independent calendar judge in San Diego Superior Court. Appointed to the El Cajon Municipal Court in 1988 and elevated to the Superior Court in 1989, Judge Prager's previous assignments included criminal and civil law and motion and trials. Judge Prager spent 18 years as a prosecutor in the San Diego District Attorney's Office and California Attorney General's Office before becoming a judge.

### **MIKE AGUIRRE, AGUIRRE & MEYER**

Mike Aguirre has tried many punitive damages cases to verdict and is the author of *The Collected Speeches of Robert F. Kennedy: The Campaign of 1968*, (edited 1988) and *U.S. Senate Permanent Subcommittee on Investigations Staff Study re: Organized Crime*, U.S. Government Printing Office, 1977. Mr. Aguirre is an instructor of "The History of Organized Crime in America," and "History of John F. Kennedy Presidency," University of Southern California, 1979-81. In 1982 he was voted most distinguished name in the San Diego Legal Community by readership of the *San Diego Daily Transcript*.

**WYLIE A. AITKEN, AITKEN AITKEN & COHN**

Wylie Aitken is a nationally recognized trial lawyer, and was and is the youngest president in the history of the State Trial Bar. Recognized by the *Daily Journal* as being one of “The Top 100” Most Influential Lawyers in California, he was acknowledged in the *OC Business Journal’s* article on the top 50 most influential business leaders in the county, and is listed in *The Best Lawyers in America*.

**9:25– 11:10 a.m.      Winning Trial Techniques:  
Argument**

**HON. REBECCA WISEMAN, CALIFORNIA COURT OF APPEAL, 5TH DIST.**

Justice Rebecca Wiseman is an Associate Justice on the Court of Appeal, Fifth Appellate District. She received her LL.M. from the University of Virginia and is a co-author of The Rutter Group practice guide entitled *Employment Litigation*. Justice Wiseman has made public outreach a top priority, frequently taking the appellate court “on the road.” She is the past chair of the California Judges’ Foundation and is a frequent lecturer on numerous legal topics.

**HON. MICHAEL BALLACHEY (RET.), ALAMEDA SUPERIOR COURT**

Nearly fifteen years of private practice ensured that Judge Ballachey was a well-prepared jurist from his first day on the bench. Judge Ballachey has had a distinguished 20-year career on the bench, where he served in virtually every assignment available. He earned the respect of his peers while serving as the Supervising Judge and later as the Presiding Judge. The final six years of his tenure were spent on an exclusive, civil assignment in which he conducted numerous settlement conferences and trials. Judge Ballachey has been honored as the Trial Judge of the Year by three separate bar associations.

**MORGAN CHU, IRELL & MANELLA LLP**

Morgan Chu was plaintiff’s counsel in *Stac v. Microsoft* (\$120 million), *City of Hope v. Genentech* (\$500 million), and *TI v. Samsung* (\$1 billion settlement). The *National Law Journal* has named him one of the Top 10 Trial Lawyers in the United States and among the 100 Most Influential Lawyers in America in every one of its surveys since they began in 1994.

**JOE COTCHETT, COTCHETT PITRE SIMON & MCCARTHY**

Joseph W. Cotchett has been called one of the 100 Most Influential Lawyers in America by *The National Law Journal*. In the 1980’s, Mr. Cotchett won multi-million dollar punitive damage judgments for investors in white-collar fraud cases. In the 1990’s, Mr. Cotchett tried the Charles Keating savings and loan scandal which involved a four month jury trial with verdicts of \$3.3 billion, including \$2 billion in punitive damages. Mr. Cotchett has tried over 100 cases to verdict.

**MARK MAZZARELLA, MAZZARELLA DUNWOODY & CALDERELLI, LLP**

Mark Mazzarella is a past President of the California State Bar Litigation Section and former Chair of the San Diego Chapter of ABTL. He is one of San Diego’s most respected business trial lawyers and co-author of the New York Times best-seller *Reading People* (Random House 1998) and *Put Your Best Foot Forward* (Simon & Schuster 2000).

**GARY A. WALDRON, WALDRON & OLSON**

Gary A. Waldron is Treasurer of the Orange County Chapter of ABTL, President of the University of Kansas Law School Board of Governors, and a member of the American Board of Trial Advocates. His business and real estate trial practice emphasizes fraud cases, particularly involving financial institutions. More than thirty of his jury trials have presented punitive damage issues.

**11:25 a.m. – 12:30 p.m. Post-Trial Motions and Jury Debriefing**

**HON. SUSAN ILLSTON, U.S. DISTRICT COURT, NORTHERN DISTRICT OF CA**

Judge Susan Illston was appointed to the United States District Court for the Northern District of California in May 1995, and her chambers are located in San Francisco. Before joining the bench, she was a partner in the law firm of Cotchett, Illston & Pitre (now Cotchett, Pitre, Simon and McCarthy) in Burlingame, CA, specializing in civil litigation practice with emphasis on commercial litigation. Judge Illston is a member of various professional organizations, including the American College of Trial Lawyers and the American Board of Trial Advocates, and has also lectured and authored numerous articles.

**HON. GEORGE H. KING, U.S. DISTRICT COURT, CENTRAL DISTRICT OF CA**

Judge George King tries a myriad of federal civil and criminal cases, hears and decides law and motion matters on a weekly basis, conducts settlement conferences covering virtually every field of federal and state law, and handles case management. Judge King is Chair of the Magistrate Judge's Committee and serves on the Attorney Liaison Committee. Judge King has sat by designation on the Ninth Circuit Court of Appeals and is Chair of the Ninth Circuit Jury Instruction Committee.

**HON. ALEX KOZINSKI, UNITED STATES COURT OF APPEAL, 9TH CIRCUIT**

Judge Kozinski was appointed United States Circuit Judge for the Ninth Circuit on November 7, 1985. Prior to his appointment to the appellate bench, Judge Kozinski served as Chief Judge of the United States Claims Court, 1982-1985. Judge Kozinski's experience includes serving as Special Counsel, Merit Systems Protection Board, 1981-1982; Assistant Counsel, Office of Counsel to the President, 1981; Deputy Legal Counsel, Office of the President-Elect Reagan, 1980-1981; Attorney, Covington & Burling, 1979-1981. Judge Kozinski clerked for Justice Warren E. Burger from 1976-1977.

**ROBERT HILLISON, CASWELL BELL & HILLISON LLP**

Robert Hillison has over 30 years of experience as a civil trial lawyer specializing in commercial, construction, and real estate litigation. Areas of expertise include construction disputes, contract disputes, construction and design defect cases, disputes involving secured transactions, commercial leases, partnership and corporate disputes, unfair business practices and antitrust cases.

**DEBORAH A. PITTS, HANCOCK ROTHERT & BUNSHOFT LLP**

Deborah Pitts is the former Managing Partner of Hancock's Los Angeles office. She is a member of the firm's Insurance Coverage, Business Litigation and Appellate Practice Groups. Ms. Pitts specializes in representing clients that have suffered adverse judgments. For instance, Ms. Pitts represented Underwriters at Lloyd's of London after an LA jury awarded a \$425 million verdict, including \$386 million in punitive damages, against Lloyd's. Ms. Pitts succeeded in obtaining a remittitur of the punitive damages to \$71 million, and subsequently won an appeal reversing the entire judgment.

**NATIONAL JURY PROJECT**

National Jury Project brings a wealth of courtroom experience, professional insight, and real world data to devising a winning litigation strategy. Their case involvement includes complex commercial litigation, tobacco litigation, intellectual property litigation and more. The founders of NJP initiated the use of social science research to improve jury selection and case presentation in jury trials. (demonstrated in this program by Lois Heaney and George Kich)

**1 p.m. Hotel Check-out**

The ABTL wishes to acknowledge and thank the following additional sponsors that are working with our program panelists supporting the preparation and presentation of this program.

**Fulcrum Legal Graphics**  
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### **HYATT REGENCY TAMAYA RESORT**

Santa Ana Pueblo, New Mexico

On your first visit, you will immediately recognize what a truly special place Hyatt Regency Tamaya Resort and Spa is. Set on over 500 acres of protected land along the Rio Grande, New Mexico's premier resort offers spectacular views of the Sandia Mountains and the Bosque. No setting could be more beautiful, tranquil and rich in history and culture, and no people as gracious and friendly, as those who call the Pueblo of Santa Ana, or Tamaya, home.



Every detail of the resort, from the architecture, reminiscent of a historic Southwestern Pueblo Community, to the cuisine, speaks to the culture and history of the Tamayame. Cultural treasures and artwork are showcased throughout the resort. Breathtaking natural beauty surrounds you on every side. You'll discover why the

Tamayame choose this place as their home.

The Hyatt Tamaya has something for everyone. Spend your time in the sun playing golf, taking in a game of tennis or hiking the Rio Grande or Sandia Mountains.



The Kiva Pool is sheltered from the desert breeze and a separate activities pool offers a 2 story waterslide for the adventurous.



Just around a mesa is a stable full of horses ready to take you for a ride through the desert - a unique way to enjoy the landscape and local wildlife.

Relax in the Tamaya Mist Spa with full spa service, hot tubs and daily yoga classes. Continue to pamper yourself by stepping into the

courtyard to watch local Tamaye making bread in traditional Pueblo ovens. Treat yourself to this most delicious fresh bread, offered with a variety of local seasoned butters, from smokey chipotle to sweet honey.



## GENERAL INFORMATION

### WHAT IS INCLUDED FOR ATTENDEES AND REGISTERED GUESTS

- All Seminar Presentations
- Welcome Reception
- 2 Continental Breakfasts
- Dinner Event and Keynote Address
- Registered Children may attend continental breakfasts, Friday night Welcome Reception and Saturday night activities, dinner & entertainment
- Sponsor Exhibits

### CANCELLATION POLICY

*Program registration fees* are only refundable up to Monday, September 8, 2003, less a processing fee of \$125. Cancellations must be received in writing by fax at 323.935.6622, or e-mail at [abtl@attbi.com](mailto:abtl@attbi.com) no later than 5 p.m. on Monday, September 8, 2003.

### MCLE CREDIT

This activity has been approved for Minimum Continuing Legal Education credit by the State Bar of California in the amount of 10 hours. The ABTL certifies that this activity conforms to the standards of approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

### HOTEL ACCOMMODATIONS

All accommodations are at the Hyatt Tamaya Resort. You are responsible for booking your own hotel accommodations by contacting the hotel at 800.233.1234. The ABTL will assist you with questions and concerns regarding your hotel arrangements, but will not assume responsibility for hotel cancellation penalties. For your additional enjoyment, the ABTL discounted rates are available for pre- and post- extension of conference dates, up to a maximum of 4 days on either side of the conference.

### AIRFARE

The ABTL has negotiated special group discounts on several airlines, provided you use the following group discount codes when making your reservation. These discounts range from 5% - 10% off the current lowest published rate.

Southwest Airlines: Id Code J0223

Amerca West Airlines: CAMS Code 7221

United Airlines: ID Code 516BG

### TRANSPORTATION TO RESORT

The Tamaya Resort is approximately 20 minutes north of Albuquerque and 30 minutes south of Santa Fe. You will need transportation from the airport to the resort. Please contact the hotel concierge (505) 867.1234 to make arrangements for a shuttle or hotel van.

### CONTACT INFORMATION

Event Planner: Rebecca L. Cien  
1800 S. Fairfax Ave.  
Los Angeles, CA 90019  
PH 323.939.1999; FX 323.935.6622  
CELL 323.823.6934

Note: All communications with the event planner after October 14, 2003 should be directed to the hotel or cell phone number.



**30<sup>th</sup> ANNUAL SEMINAR**  
**October 17-19, 2003 - Tamaya Resort, New Mexico**

**CONFERENCE REGISTRATION FORM**

*Complete the registration form and submit to ABTL, P.O. BOX 351649, LOS ANGELES, CA 90035*

*Make checks payable to the ABTL. Tax. ID: 51-0167001.*

*Registration by credit card payment may be faxed to 323.935.6622*

**Personal Information:**

Name:

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**ABTL Chapter:**

*Please Indicate Chapter. You must join your local ABTL chapter to be eligible to attend this seminar.*

- Los Angeles
- Northern California
- San Diego
- Orange County
- San Joaquin Valley

**Category Selection and Registration Fees:**

*Please register in one of the following categories. Prices are Per Person. Registration fees include all materials, group meals and special events.*

- Early Conference Registration** (before August 1, 2003) **\$695.00**
- Conference Registration** (postmarked after August 1, 2003) **\$795.00**
- Early Conference Registration** (before August 1, 2003) **\$495.00**  
 - New Lawyer (Admitted to practice 10 years or less)  
 - In-house Counsel  
 - Public Entity Attorney
- Conference Registration** (postmarked after August 1, 2003) **\$595.00**  
 - New Lawyer (Admitted to practice 10 years or less)  
 - In-house Counsel  
 - Public Entity Attorney
- Judicial Registration** **\$325.00**
- Spouse / Guest Registration** **\$295.00**  
 - Includes 2 breakfasts, 2 dinners and entertainment
- Child Registration** **\$ 95.00**  
 - Children 14 and under  
 - Includes 2 breakfasts, 2 dinners and entertainment

Guest Name:

Names & Ages of Children:



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**Payment Information:**

*Enter total cost from all categories selected on registration form, page 9.  
 Select appropriate payment and enclose payment if paying by check.*

Total:

 **Personal / Business Check** - Make check payable to ABTL.

Please charge my credit card:

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Name on card:

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**Activities:**

*Indicate which activity you are interested in participating during the Saturday afternoon "free" time. You will be contacted to confirm participation approximately 1 month prior to the seminar.*

- Golf**  
 **Tennis**  
 **Hiking**  
 **Biking**  
 **Horseback Riding**

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National Jury Project trial consultants have been working with lawyers throughout the country to prepare and win cases for nearly 30 years. Through applied social science research and courtroom experience, we aid lawyers with trial strategy, identifying compelling themes, simplifying complex cases, witness preparation and jury selection. Our work includes complex commercial litigation, toxic torts, tobacco, employment, personal injury and criminal cases.



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