# The Deskbook

The Motor Vehicle Accident Deskbook is jam-packed with 24 informational chapters including Basic Concepts of Liability and Damages and Medical Subrogation Issues. Thirty dedicated authors have researched and drafted these chapters in areas where they are the expert. You will find an objective analysis of the law that strikes a balance between plaintiff and defense

perspectives. To practice auto liability law in Minnesota accurately and efficiently, the Deskbook is a must. It covers nearly every practice issue imaginable, providing you with the orientation, the analysis and the authorities you need to cite. There's no doubt that you'll be "smarter" and more effective using the Minnesota Motor Vehicle Accident Deskbook.

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2019



# 2019 Motor Vehicle **Accident Cases** in Minnesota

**BONUS: You'll receive the** new edition of the Minnesota Motor Vehicle Accident Deskbook at no extra charge!

# Highlights:

• Collateral Source Offsets in Plaintiffs' Verdicts with Medicare and Medicare Advantage Plans

**MINNESOTA** 

ACCIDENT

**DESKBOOK** 

MOTOR VEHICLE

- Diagnosis and Treatment of TBIs in Motor Vehicle Accident Cases
- Developments in the Law Regarding Lambertson and Re-allocation
- Scooters, Uber, Lyft and Other New Issues in No-Fault Coverage
- Dropdowns and Family Exclusions in Liability Policies
- Litigating Motor Vehicle Accident Cases Involving TBIs - Plaintiff and Defendants
- And Much More!

Wednesday, June 5, 2019

Minnesota CLE Conference Center 600 Nicollet Mall, Suite 370 | Third Floor City Center; Minneapolis

In-person replay details inside.

The materials for this course will be the new 6th Edition of the Minnesota Motor Vehicle Accident Deskbook.

# The Schedule

8:30 - 8:50 a m CHECK-IN & CONTINENTAL BREAKFAST

8:50 - 9:00 a.m INTRODUCTION

9:00 - 9:30 a.m.

# Collateral Source Offsets in Plaintiffs' Verdicts with Medicare and Medicare Advantage Plans

Plaintiffs should get the benefit of the Medicare discount in personal injury trials when Medicare is the payor under Renswick. But what happens to the offset when the plaintiff is a participant in a Medicare advantage plan or has Medical Assistance? Would the plaintiff get the benefit of those reductions in these situations? How would a Trial Court address the separation of these dollars in a post-trial motion for collateral source offsets? Does it matter whether or not either party obtains an assignment of the health payor's subrogation rights for purposes of applying the Swanson v. Brewster offset? Laura Morlee will address collateral source issues, both pre-trial and post-trial in a review of the procedure, the discovery phase and the post-trial negotiations and motion practice from the perspective of a defense attorney.

- Laura Moehrle Quinlivan & Hughes, St. Cloud

9:30 - 10:00 a.m

# **Best Practices in Preparing Your Motor Vehicle Accident Case for** Mediation

What are some of the common mistakes plaintiff attorneys and defense attorneys make in preparing their cases for mediation? How do plaintiff attorneys maximize their outcomes at mediation and what must be done before mediation begins? How can a pre-suit mediation be useful as opposed to pre-mature? Learn some of the most common pitfalls that can be anticipated and avoided to best serve your client at mediation. How do you determine who will best fit your case as a neutral? Hear from experienced litigator and ADR neutral, Jon Lilleberg who will discuss is tactics as a practitioner as well as his observations about what is effective when serving as a motor vehicle accident case mediator.

 Jon Lilleberg Lilleberg & Hopewell PLLP, Minneapolis

# A View From the Hennepin County Bench

What do jurors tell us about what they see and hear during the course of a motor vehicle accident trial? What works and what doesn't? Also, learn more about the concerning trend of distracted driving due to electronic device use. Take part in an open discussion on what thresholds might be necessary to amend to seek punitive damages in distracted driving

- Hon. Joseph R. Klein Hennepin County District Court, Minneapolis

10:30 - 10:45 a m BRFAK

10:45 - 11:15 a.m.

# **Diagnosis and Treatment of TBIs** in Motor Vehicle Accident Cases

In the increasingly frequent occurrence of TBI allegations in motor vehicle accident cases, proper and timely diagnosis, as well as treatment, is crucial. Whether or not a TBI diagnosis is credible and believable depends on numerous criteria. Dr. Patrick Cronin is a neuropsychologist specializing in dealing with TBI patients. He will cover this topic with an emphasis on what things are crucial to learn and how practitioners can effectively recognize and deal with legitimate brain injuries from motor vehicle crashes.

 Dr. Patrick Cronin Minneapolis

11:15 - 11:45 a.m.

# **Dram Shop Issues in Motor Vehicle Accident Cases**

Litigating cases with potential dram shop issues has long been replete with pitfalls. Notice requirements, statutes of limitations, and limited comparative fault issues should make practitioners nervous about taking these cases lightly, or bringing them in the first place. Also figuring out questions about toxicology experts and other toxicology evidence is important before a case is pursued. Steve Tomsche practices frequently in this area and will review issues arising in dram shop law and it's overlap with MVA

- Steve Tomsche Tomsche, Sonnesyn & Tomsche, Minneapolis

## 11:45 a m - 12:00 p m QUESTIONS & ANSWERS

12:00 - 1:00 p.m. LUNCH (on your own)

1:00 - 1:30 p.m.

# **Developments in the Law** Regarding Lambertson and Re-allocation

Lambertson v. Cincinnati Corp. was decided

by the Minnesota Supreme Court in 1977. Lambertson created a system for allocating damages when the Plaintiff had collected workers compensation and the Defendant had sued the employer seeking contribution in the tort action. Minn. Stat. §604.02 gives the general rule for allocating damages when multiple parties are at fault, Minn, Stat. §604.02 has been amended a number of times since lambertson was decided in 1977 Have the amendments to §604.02 concerning joint and several liability changed the manner in which damages get allocated between a Defendant and an at-fault employer under Lambertson? Find out from Mike Fargione as he explains this complex topic.

- Mike Fargione McEllistrem Fargione PA, Minneapolis 1:30 - 2:00 n m

# **Dropdowns and Family Exclusions in Liability Policies**

What happens when an underlying liability policy contains a resident relative drop down policy - purporting to reduce the coverage available for a negligent driver's family members? Can this be enforceable against the insured? How enforceable are family exclusions in umbrella coverages and how can you plan around this? Andy Rorvig and Paul McEllistrem will co-present on these family exclusions, the trend towards proliferation and legislative angles for these growing exclusions.

- Andrew Rorvig McEllistrem Fargione PA, Minneapolis
- Paul McEllistrem McEllistrem Fargione PA, Minneapolis

2:00 - 2:30 p.m.

# Scooters, Uber, Lyft and Other New Issues in No-Fault Coverage

With an ever evolving set of transportation options comes an ever evolving set of no-fault coverage guestions. Mike Skram will review no-fault coverages involving Scooters and self propelled devices operated in Minnesota and out of state. Namely, when is it triggered and where will it come from? This fast moving area of insurance is a must see in 2019!

- Mike Skram O'Meara, Leer, Wagner & Kohl, P.A., Minneapolis

2:30 - 2:45 p.m.

2:45 - 3:15 p.m.

# **Litigating Motor Vehicle Accident** Cases Involving TBIs – Plaintiff and Defendants

Plaintiff's and defense attorneys have a different perspectives in assessing, working up and advocating for their clients in motor vehicle accident cases with allegations of TBIs. In this segment, hear from a plaintiff's lawver and a defense lawver on a point and counterpoint conversation on common issues and pitfalls in dealing with TBIs in motor vehicle accident cases. Stephanie Balmer and Rob Barnes have extensive experience in dealing with these cases and will co-present from both sides of the aisle.

- Stephanie Balmer Falsani Balmer Law Firm, Duluth
- Stuart Johnson Reding and Pilney, PLLP, Lake Elmo

3:15 - 3:45 n m

# Truck Crash Cases and the **Unique Considerations From the Defense Lawyers Perspective**

What type of investigation is being done by the defense when there is a semi truck involved in a motor vehicle accident? How quickly are the insurers and their representatives moving in order to protect themselves and their insureds. What actions do you need to take in order to preserve the data recorders in semi-truck accident cases? Can you get access to driver's logs before litigation? What is the significance of a vehicle inspection report in a disputed liability case involving a motor vehicle accident involving a semi-truck? What pitfalls exist with respect to insurance coverages and semi-trucks and what happens when a carrier has a wasting provision in the liability coverage? Defense attorney Rachel Beauchamp and Chris Malone will review the defense' perspective in motor vehicle crashes involving semi-trucks.

- Rachel Beauchamp Cousineau, Van Bergen, McNee & Malone, P. A., Minneapolis
- Chris Malone Cousineau, Van Bergen, McNee & Malone, P.A., Minneapolis

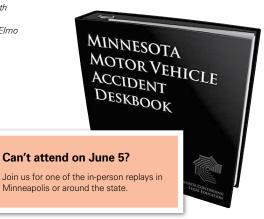
3:45 - 4:15 n m

# **Trial Tactics in Motor Vehicle Accident Cases – Plaintiff's** Perspective

Handling a trial of a personal injury case takes a lot of time, sucks up a lot of energy and can be less than rewarding. In this segment, Andrew Rorvig and Paul McEllistrem share the benefits of their team trial approach in motor vehicle accident cases. They will also discuss ideas and tactics utilized in motor vehicle accident trials - with varying levels of success and failure during this final segment.

- Andrew Rorvia McEllistrem Fargione PA, Minneapolis
- Paul McFllistrem McEllistrem Fargione PA, Minneapolis

4:15 - 4:30 p.m **QUESTIONS & ANSWERS** 



# **COURSE INFORMATION**

## LIVE PRESENTATION

Wednesday, June 5, 2019

Minnesota CLE Conference Center 600 Nicollet Mall, Suite 370 Third Floor City Center, Minneapolis

# IN-PERSON REPLAYS

Schedule times may differ from the live program. Start times are as indicated below. Please register at least one week in advance to secure your copy of the course materials on the day of the seminar.

Minneapolis - 7/16/19 (Reg. 8:30; Replay 9:00)

Minnesota CLE Conference Center 600 Nicollet Mall, Suite 370 Third Floor City Center

Brainerd - 8/2/19 (Reg. 9:00; Replay 9:15) Brainerd Public Library 416 South Fifth Street

Duluth - 7/12/19 (Reg. 8:30; Replay 9:00) Pier B Resort

800 West Railroad Street Pilot House Boardroom

Mankato - 6/20/19 (Reg. 8:15; Replay 8:30) Farrish Johnson Law Office

1907 Excel Drive Marshall - 6/28/19 (Reg. 8:30; Replay 9:00)

Runchey, Louwagie & Wellm 533 West Main Street

Moorhead - 6/24/19 (Reg. 9:00; Replay 9:15) Moorhead Public Library 118 Fifth Street South

Rochester - 6/20/19 (Reg. 8:30; Replay 9:00) Samaritan Bethany

24 8th Street Northwest St. Cloud - 8/1/19 (Reg. 8:15; Replay 8:30)

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Minnesota CLE is applying to the Minnesota State Board of CLE for 6.0 CLE credits. The maximum number of credits an attendee may claim for this course is 6.0.

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