

# 81st Annual Conference

---

SEPTEMBER 28 • WEDNESDAY

---

7:00am – 5:00pm	<b>Registration</b> Indigo West Foyer
8:00am – 12:00pm	<b>IMLA Board of Directors Meeting</b> B Indigo 204A
8:15am – 9:00am	<b>Search Warrants</b> Aqua Salon ABC  <i>Speakers: Shannon O'Connor</i>  Presentation will include a discussion related to the parameters of the 4th Amendment, procedures (including warrant issuance, execution, return), and potential problems. F
8:45am – 9:00am	<b>Opening Remarks</b> Aqua Salon DEF  I <i>Speakers: Frank Gummey</i>
9:00am – 9:45am	<b>Case Law Update</b> Aqua Salon ABC  <i>Speakers: Sherri Russell</i>  Presentation will focus on recent cases specific to code enforcement. F
9:00am – 9:45am	<b>Fundamentals of Municipal Finance and Borrowing</b> Aqua Salon DEF  <i>Speakers: David Unkovic</i>  Municipal attorneys are often asked, “Can we do this?”, when “this” relates to getting, spending, and borrowing money by their municipal clients. This session will consider the essential legal issues attendant to that question. We will discuss basic constitutional issues like public purpose, corporate purpose, and lending of the public credit; the theoretical distinction between taxes and fees; the legal ramifications of that distinction; and other limitations on the ways that municipalities can get and spend money. We will also briefly consider the role and types of municipal borrowing. Because the laws vary widely from state to state, the session will focus on issue spotting and general questions that the municipal attorney should consider when asked financial questions I
9:45am – 10:00am	<b>Break</b> F Aqua Salon ABC

## Parliamentary Procedure

Aqua Salon DEF

*Speakers: Trey Allen*

Municipal and county governing boards are often populated with well-meaning public servants who have little or no understanding of parliamentary procedure. Consequently, they may conduct their meetings informally, applying procedural rules loosely and perhaps even inconsistently. This “down-home” approach might appear to work well when the board is dealing with noncontroversial matters. Yet when controversy arises – and it always does – the result can be multiple motions made in rapid succession and members who are confused about what they are being asked to vote on. In such situations, the presiding officer is likely to seek the advice of counsel. This presentation will arm local government attorneys with basic principles of parliamentary procedure, examine the legal sources of those principles, and review common procedural problems

9:45am – 10:30am

I

---

## Bankruptcy and Collection Issues

Aqua Salon ABC

*Speakers: Lisa Torres*

Presentation will focus on bankruptcy basics and collections for municipal lawyers.

10:00am – 11:00am

F

---

## Break

10:30am – 10:45am

I

Aqua Salon DEF

---

## Sunshine Laws—Key Concepts and Hot Topics

Aqua Salon DEF

*Speakers: Frayda Bluestein*

Public Record (FOIA) laws and open meeting requirements provide transparency and accountability in local government. New city and county attorneys must be familiar with the basic coverage and scope of the transparency laws that govern their clients, as well as the exceptions that apply (whether by statute or court interpretation). These laws vary from state to state, but some issues are universal. Hot topics to be discussed include electronic records and metadata, virtual meetings and remote participation in meetings, status of records in social media, standing requests, status of citizen information in public records, public information on private devices and accounts, and private information on government devices and accounts. Using scenarios involving common transparency issues as prompts, participants will be invited to talk about the basic rules and emerging issues in their jurisdictions.

10:45am – 11:30am

I

---

## What to Do When Short-Term Rentals Comes to Town

Aqua Salon ABC

*Speakers: Trish Link*

Presentation will focus on regulation and enforcement issues that arise with short-term rentals.

11:00am – 12:00pm

F

11:30am – 12:15pm

I

---

## Personnel and Employment Law

Aqua Salon DEF

*Speakers: Dan Crean*

It often has been said that one of the largest components of a local government budget is for personnel and labor costs. While there are many similarities between guiding employers between the public and private sectors, public employers have some I L G L Wednesday, September 28th San Diego, CA - Hilton Bayfront Hotel Institute for Local Government Lawyers additional concerns not faced by their private employment counterparts. This presentation provides some road maps and guide posts to help navigate through the maze of federal and state statutory employment requirements along with discussion of some common law doctrines particularly focused on the public sector. Among topics to be addressed are the following: --The Employment Framework – Employee, Volunteer or Independent Contractor; At Will Status --Overview of Selected Federal and State Labor Laws --Constitutional Protections for Public Employees, Including Employee Speech --The Life Cycle of Employment from Hiring to Discipline to Termination --The Municipal Attorney’s Role

---

12:00pm – 1:00pm	F	<b>Lunch (On your own)</b> Aqua Salon ABC
12:15pm – 12:30pm	I	<b>Morning Program Evaluations</b> Aqua Salon DEF
12:30pm – 1:30pm	I	<b>Lunch</b> Aqua Salon DEF
1:00pm – 2:00pm	F	<b>Historic Properties &amp; Code Enforcement</b> Aqua Salon ABC  <i>Speakers: Donna Fairweather, Robert Vacchi</i>  Presentation will focus how to address code enforcement issues at historic properties.
1:00pm – 2:00pm	W	<b>Legal Hold and E-Discovery Working Group Meeting</b> Indigo 202A  <i>Speakers: Pete Haskel</i>
1:30pm – 2:15pm	I	<b>Land Use Law 101</b> Aqua Salon DEF  <i>Speakers: Dwight Merriam</i>  Land Use Law 101 is designed to serve two audiences. First, for those new to land use law, this is a primer on all the basics you need to know to spot issues and to determine when you need to dig deeper. Second, for the experienced practitioner, it is a comprehensive update of the most recent developments, typically those of the last year, from trial court decisions to the U.S. Supreme Court, all in the context of the issues faced daily in this practice. The focus is on practicality and take-home value.
2:00pm – 3:00pm	F	<b>Ethics in Code Enforcement</b>

---

Aqua Salon ABC

*Speakers: Barbara Burlingame, Janet Spugnardi*

Presentation will focus on ethical issues that arise in the code enforcement context from both the code enforcement professional and municipal attorney perspectives.

---

**Large Population Meeting**

Indigo 204A

2:00pm – 3:00pm

M *Speakers: Robert Hagemann (Chair), G. Foster Mills*

**Ethics**

Aqua Salon DEF

*Speakers: Randall Van Vleck*

This session will employ a different approach to the discussion of Ethics. Traditional Ethics programs look at the topic through the lens of the Professional Code. This approach, however by its own terms limits the discussion. The Professional Code establishes a minimum standard of expected conduct. Professional Codes embrace broad and generous public spirit and self-service sentiments such as “do no harm” and “avoid even the appearance of impropriety.” This session will provide insight into how to identify and classify Ethical dilemmas and will provide a values-driven approach for resolving Ethical quandaries. By employing a values-based approach to analyzing and resolving Ethical Dilemmas, this session will encourage participants to think and act above and beyond the legal restrictions of the Professional Code, maximizing the public’s trust and confidence in the profession

2:15pm – 3:00pm

I

**Break**

3:00pm – 3:15pm

F Aqua Salon ABC

**Break**

3:00pm – 3:15pm

I Aqua Salon DEF

**Break**

3:00pm – 3:15pm

N Indigo West Foyer

**Negotiation**

Aqua Salon DEF

*Speakers: DeWitt “Mac” McCarley*

This presentation will outline the steps in preparing for a negotiation, discuss factors to consider in picking a strategy, and demonstrate both how to use and how to counter some of the most common negotiation tactics.

3:15pm – 4:00pm

I

**State League Counsel and Municipal Attorneys Association Department Meeting**

Indigo 204B

3:15pm – 4:45pm

D *Speakers: Michael McGinley, JoAngela Woods*

## Collaborative Approaches to Code Enforcement

Aqua Salon ABC

*Moderators: Larry Baer*

*Speakers: Gabriela Brannan, Meira Greenberg, Ryan Haga*

Panel discussion that will focus on ways code enforcement issues can be addressed through collaborating with other municipal departments, local/state agencies, or the community.

3:15pm – 5:00pm

F

---

### State League Reception

5:00pm – 6:00pm

N Elevation Room

---

### Padres Baseball Game (Advance Registration Required)

7:10pm – 10:00pm

N Petco Park (100 Park Boulevard San Diego, CA 92101)

**B**BOD Meeting

**C**Canada

**F**Code Enforcememnt

**M**Committee Meeting

**R**Concurrent

**D**Department Meeting

**G**General Conference

**I**ILGL

**N**Networking

**S**Section Meeting

**T**Tours

**W**Working Group

**K**Workshop

---

## SEPTEMBER 29 • THURSDAY

---

7:00am – 5:00pm

### Registration

Indigo West Foyer

---

### Due Process

Aqua Salon ABC

*Speakers: Sharon Dickgrafe*

8:00am – 9:00am

F

Presentation will focus on due process issues that arise during code enforcement.

---

### Civil Enforcement

9:00am – 10:30am

F Aqua Salon ABC

*Moderators: Nick Hermsen*

*Speakers: Nicholas A. Firetag, Steve McKenzie, Janet Spugnardi*

Panel discussion that will focus on methods of civil enforcement and receiverships to remedy code enforcement issues.

---

### **Hot Topics in Land Use - Regional Growth Management & Takings**

Indigo ABEF

*Moderators: Marianne Landers Banks*

*Speakers: Alyssa Bradley, Julian Juergensmeyer, Susan Trevarthen, Raymond Young*

The first part of this presentation will focus on Regional Growth Management. Regional Growth Management in large metropolitan areas comprising numerous independent municipalities is the newest challenge to addressing sprawl by enactment of regional planning frameworks that compel municipalities to harmonize their individual official plans to be consistent with a rational Regional Growth Strategy. This presentation will provide an integrated comparative look at three different models of Regional Growth Management legislation in Florida, Georgia, and British Columbia. The second part of this presentation will switch gears and discuss the important pending Supreme Court case, *Murr v. Wisconsin*, which will address the parcel as a whole rule. This presentation will also discuss other takings cases of national importance and the development of statutory protection of property rights

9:00am – 10:30am

G

---

### **IMLA's Construction Contract Drafting Initiative**

Indigo CG

*Speakers: Roy Cooper, Brian Goodreau, John Markovs, Christopher Petrini*

For five years, the Construction Contract Drafting Initiative has provided IMLA members with a forum to engage in substantive discussions regarding effective terms and conditions in construction contracts for public projects. This year's project highlights horizontal construction contracts for public projects, with working groups collaborating to draft samples of effective terms, conditions, and forms that address the specific needs of governments.

9:00am – 10:30am

G

---

### **Break**

10:30am – 10:45am

F Aqua Salon ABC

---

### **Break**

10:30am – 10:45am

N Indigo West Foyer

---

### **Perennial Remodels**

Aqua Salon ABC

*Speakers: Diane Silva-Martinez*

10:45am – 11:45am

F

Presentation will focus on what to do when an owner fails to timely rehabilitate/remodel the property.

---

### **An Aging Workforce – Reviewing Pension Status and Age Discrimination and Public Pension Reform Efforts from Around the Country**

10:45am – 11:45am

G Indigo ABEF

*Moderators: Cathy Hampton*

*Speakers: Patricia Beety, Steven Goodin*

As the public sector workforce ages, the candidate pool for new hires and competitive promotions will also age - including an increasing share of individuals over 55 who, by virtue of age alone, may qualify for a public pension. The first part of this presentation will review recent decisions by federal courts that reflect a struggle to apply Hazen Paper Co. v. Biggins, a Supreme Court case which held the sole fact an employee is pension eligible is not enough to establish discriminatory animus so long as this factor is not used as a "proxy" by the employer for age discrimination. Clarity in what can/ cannot be considered is needed for cities who will inevitably confront a hiring situation where there is notice and perhaps even consideration of a candidate's retirement eligibility but no evidence the candidate's age itself was viewed as a negative characteristic - the discriminatory intent required by Hazen Paper to support an age claim. The second part of this presentation will focus on cutting-edge efforts to reform state and municipal public pension funds, including an overview of how those efforts are faring in both state and federal courts. Special emphasis would be placed upon the Cincinnati deal and the current crises in Illinois and Kentucky.

---

### **Autonomous Cars & the Future of Transportation: Not a Horse and Buggy, but Not Quite Starship Enterprise...Yet**

Indigo CG

*Moderators: Patrick Baker*

*Speakers: Steven DeBaun, Greg Rodriguez*

The demands on public transportation have never been greater as our metropolitan areas continue to grow faster than improvements to our transportation infrastructure can be completed. With a new transportation bill (the FAST Act) being signed into law, this presentation will discuss funding mechanisms authorized for transportation projects and the importance of federal coordination and efficient use of public monies in this Congressional era. The presentation will also identify key themes for the future of transportation projects, including transit oriented development, safety and the incorporation of new technologies such as autonomous vehicles into our transportation network.

10:45am – 11:45am

G

---

### **When Disaster Strikes: What Will Your City be Expected to Do and Defending Municipalities against Disaster Related Claims**

Indigo D

*Moderators: Monica Joiner*

*Speakers: David N. Bruce, Marc L. Zafferano*

The first part of this presentation provides a compelling, behind-the-scenes glimpse into the 2010 utility gas line explosion in San Bruno, CA that killed eight people and injured dozens. The presentation focuses on how any city can most effectively respond to a human-caused disaster by using a coordinated legal and public relations strategy to compel the responsible parties to address the broader needs of the community. Also included is the remarkable story of how the city used open records laws to hold the state's utility regulatory agency accountable, a saga that continues to unfold. Learn how the city responded to the disaster and its residents' needs, recovered \$50 million to restore the neighborhood and \$70 million to fund a community non-profit in a first-of-its-kind settlement without any litigation, and

10:45am – 11:45am

G

worked to hold the state's regulatory utility commission accountable. The second part of this presentation will examine lawsuits against municipalities that occur in

the wake of these all-too-common natural disasters. Municipalities have many effective lines of defense against these claims. This engaging presentation by a lawyer with extensive and recent experience defending municipalities in a wide variety of landslide and flooding cases discusses both strategies and tactics for defense, and approaches to issues that arise even before the litigation begins, in the immediate wake of the disaster.

---

**Torrey Pines Golf Outing**

Torrey Pines Golf Course (11480 N Torrey Pines Rd, San Diego, CA 92037)

10:45am – 5:45pm

N Separate sign-up required

---

**County Department Meeting**

Aqua Salon D

*Speakers: Marc Hansen, Silvia Kinch, Jody Malmstrom*

11:55am – 12:55pm

D 1. Introductions , 2.Child Welfare—Free Range Children, 3.Jails—the new mental hospital, 4.Annexation problems(very tentative on this), 5.“Round Robin”

---

**Technology Section Meeting: Ethics/Techno Competence and the Local Government Lawyer**

Indigo D

*Speakers: Pete Haskel*

What does it mean to be technologically competent? ABA model rule 1.1 requires lawyers to provide “competent representation to a client” and “competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” The ABA comment to rule 1.1 notes that this means that a lawyer needs to keep “abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology...” This presentation will explore what this means and provide a detailed analysis of the ABA comment on technological competence.

11:55am – 12:55pm

S

---

**Lexis Training:Ethics- Addressing the Ethical Concerns of Conducting Research Via the Open Web**

K Indigo 202B

11:55am – 12:55pm

---

**Thomson Reuters Practice Point Focus Group (Invitation Only)**

Indigo 204B

11:55am – 12:55pm

K *Speakers: Ann Murray Haag, Zach Ratzman*

---

**Lunch (On your own)**

12:55pm – 2:00pm

N San Diego

---

**Thomson Reuters Westlaw/Practical Law Training**

Indigo 204A

1:00pm – 2:00pm

K *Speakers: Ann Murray Haag, Zach Ratzmann*

---

**Code and Land Use Tours**

2:00pm – 5:00pm

T Promenade East Foyer

2:00pm – 5:00pm

T **Land Use Tour**

---



City of San Diego

Land Use Mobile Workshop\*

September 29, 2016

2:00PM - TBA (Likely around 5PM)

Departure: San Diego Bayfront Hotel

Cost: \$30

Wristband required to board bus **Tentative Schedule Downtown Area:**

- › Petco Park/East Village Re-development Project
- › New Downtown Public Library
- › San Diego Convention Center
- › Seaport Village/Navy Broadway/Cruise Terminal
- › State and Federal Courthouses

**Balboa Park: Historic Presentation and Brief Walking Tour of Plaza de Panama and Central Plaza Harbor Drive:**

- › Star of India
- › Renovated County Administration Building
- › San Diego International Airport

**Point Loma- Library Station**

- › Tour Park/Barracks
- › Happy Hour at Stone Brewery

\*Space is limited! First come, first served

**CLICK HERE for the registration form**

**(please email to [info@imla.org](mailto:info@imla.org))**

---

### **Welcome Reception**

6:00pm – 7:30pm

N Bayfront Park

**B**BOD Meeting

**C**Canada

**F**Code Enforcememnt

**M**Committee Meeting

**R**Concurrent

**D**Department Meeting

**G**General Conference

---

- I**LGL
- N**etworking
- S**ection Meeting
- T**ours
- W**orking Group
- K**Workshop

**SEPTEMBER 30 • FRIDAY**

**State/Province Breakfast**

7:00am – 8:00am      N Indigo Terrace

**Registration**

7:00am – 5:00pm      Indigo West Foyer

**Opening Ceremonies**

8:10am – 8:45am      G Indigo ABEF

**Opening Remarks**

Aqua Salon ABC

8:45am – 9:00am      C *Speakers: Paul DeMelo*

**Hot Topics in Employment Law – Workplace Investigations, Employee Speech & Employment Discrimination Case Law Update**

Indigo ABEF

*Moderators: Rose Humway-Warmuth*

*Speakers: Mark Meyerhoff, Camille Pating, Barry Uhrman*

The first part of this presentation will provide a discussion of recent notable federal case law concerning discrimination, harassment and retaliation in the workplace and how the law is evolving. Topics will include recent published decisions involving Title VII of the Civil Rights Act, Americans with Disabilities Act and Age Discrimination in Employment Act. This presentation will include practical tips on how to prevent these claims. The second part of this presentation will provide an overview of speech and communication issues in the workplace and the impact of social media. The presenter will discuss issues facing public entities concerning employee speech, First Amendment considerations, balancing the entities rights as an employer, disciplinary matters, plus the impact of social media (including how to write a social media policy). The third presenter will focus on workplace investigations and will consist of (1) lessons learned from the high-profile Pao v. Kleiner Perkins trial (i.e., the prominent role played by workplace investigations in discrimination litigation, controversies surrounding both the conduct and content of the investigations, issues of next steps taken by the employer pursuant to investigations, etc.) and (2) practical insight on conducting workplace investigations in the public agency environment, including perspectives on approaches to help assure investigations withstand both judicial and public opinion/media scrutiny. The

8:45am – 10:15am      G presentation would incorporate the new and rapidly emerging challenge of workplace investigations that involve what is known as implicit, subtle or unconscious

bias, which the Pao trial introduced to the world in a very dramatic way. The presentation will cover what employers need to know about implicit bias – how to identify it, manage it, investigate it, and craft appropriate responses and minimize negative impacts.

---

**Litigation, a Sword and a Shield: A Case Study for Affirmative Litigation – Monsanto’s PCBs & Defending Class Action Employment Litigation**

Indigo CG

*Moderators: Barbara Adams*

*Speakers: Tammy Daub, John Fiske, Scott Summy, Kenneth Willner*

This panel will provide great examples of two ends of the spectrum - affirmative litigation and defense of class actions and the lessons you can learn from these cases to take home and apply to evaluating your own cases. The first presentation will provide an overview of the lawsuits cities are bringing against Monsanto related to PCBs. Monsanto manufactured PCB chemicals, which are toxic, cannot be contained, and do not biodegrade. Monsanto had superior knowledge that its PCBs were a “global contaminant,” but Monsanto chose to sell and promote them anyway. Now, major U.S. cities are suing Monsanto to recover cleanup costs spent due to Clean Water Act and regulatory requirements. San Diego, San Jose, Oakland, Berkeley, Portland, Seattle, and Spokane have all filed suit, holding Monsanto accountable. Learn about these lawsuits from the attorneys who are litigating them and what your city can do about the problem. The second presentation will discuss the recent focus of the Supreme Court and lower courts on class action litigation. Municipalities have experienced class actions, like many other employers. This presentation will address the current state of the law on class certification under FRCP 23; strategies to defeat class certification; plaintiffs’ responses to the Wal-Mart v. Dukes decision; and the current status of the use of arbitration agreements to avoid class actions.

8:45am – 10:15am

G

---

**“Communicating the Value of the Municipal Law Department”**

Aqua Salon ABC

9:00am – 10:00am

C *Speakers: Glenda Cole, Richard Stock*

---

**Round Table Discussion**

10:00am – 10:15am

C Aqua Salon ABC

---

**Break**

10:15am – 10:30am

C Aqua Salon ABC

---

**Break**

10:15am – 10:30am

N Indigo West Foyer

---

**“Sexual Harassment and Workplace Violence – A Municipality’s Obligations and Responsibilities”**

Aqua Salon ABC

10:30am – 11:00am

C *Speakers: Shana French*

---

**Nominating Committee**

10:30am – 11:30am

M Aqua Salon 300

---

**Municipal Finance- Public Money & Public Projects: Local Counsel’s Role in Municipal Borrowing and Contractor Bankruptcy**

10:30am – 12:00pm

G Indigo CG

---

*Moderators: Laszlo Pinter*

*Speakers: Rita Dumain, Alice Ostdiek*

---

**Reed's Impact on Solicitation Ordinances: Are You Regulating Content, Conduct and/or Communication?**

Indigo AB EF

*Moderators: Roger Horner*

*Speakers: John Baker, Michael Carlson, Deborah Fox*

Most forms of solicitation receive First Amendment protection. Many cities that choose to regulate aggressive panhandling modeled their ordinances on ones blessed by federal judges, including former Justice Souter. After Reed v. Town of Gilbert in June 2015, some of those "safe" approaches were called into question. The presenters will discuss alternative strategies that are more likely to avoid, or satisfy, strict First Amendment scrutiny.

10:30am – 12:00pm

G

---

**"Municipal Regulation of Short Term Accommodations – Addressing AirBNB"**

Aqua Salon ABC

11:00am – 11:30am

C *Speakers: Leo Longo*

---

**"Inclusionary Zoning"**

Aqua Salon ABC

11:30am – 12:00pm

C *Speakers: Jennifer Smout*

---

**"Professional Responsibilities of Legal Counsel advising the Municipal CAO/CEO"**

Aqua Salon ABC

12:00pm – 12:40pm

C *Speakers: Wayne Meagher*

---

**Governmental Use of Drones – A Practical Look at their Use by Municipalities & Related Fourth Amendment Implications**

Indigo CG

*Moderators: Silvia Kinch*

*Speakers: Captain Frank Taylor (Ret.), Professor Gregory McNeal, Gregory Priamos, Chief Deputy Kevin Vest*

The first part of this presentation address Riverside County's (CA) Certificate of Authorization from the FAA and its test program to enhance the County's ability to direct critical resources towards saving lives during search and rescue missions. The second part of this presentation will discuss the future of aerial surveillance law in an era of drones. Focusing on 4th Amendment issues, data retention, transparency, and accountability measures.

12:05pm – 1:05pm

G

---

**The Safe Drinking Water Act and the Nation's Aging Water Infrastructure & Liability for Lead Contamination of Water Supplies- is it covered by Insurance?**

Indigo AB EF

*Moderators: Shawn Hagerty*

12:05pm – 1:05pm

G *Speakers: Finley Harckham, Andre Monette*

---

The Nation has experienced several recent large scale failures in our drinking water supply system. This panel will explore the implications these failures may have for the Safe Drinking Water Act, discuss what municipalities can do to address or prevent such failures and identify the long-term effects on municipal water supply. The presentation will also address whether liability claims against municipalities, and damage to town drinking water systems, are covered under insurance policies. These issues are certain to be heavily litigated. The presentation will discuss the issues that will likely be faced when seeking coverage and strategies for pursuing claims.

---

**“Anatomy of a Design-Build-Finance Agreement: The City of Regina Stadium Project” – Municipal - Private Partnerships”**

Aqua Salon ABC

12:40pm – 1:10pm

C *Speakers: Mark Yemen*

---

**Lunch (All- Conference)**

1:10pm – 2:40pm

C Aqua Salon ABC

---

**Luncheon**

Bayfront Park

1:10pm – 2:40pm

N *Speakers: Ruben Navarrette*

---

**2016 Scholarship Recipient - “Getting Council Buy-IN – Practical Tips and a balancing of professional obligations”**

Aqua Salon ABC

2:40pm – 3:15pm

C *Speakers: Nick Robichaud*

---

**Antitrust Actions: Why Cities Paid Too Much for Water Chemicals**

Aqua Salon 310

*Speakers: John Fiske, Scott Summy*

In 2015, a former executive from a major chemical manufacturing company pleaded guilty to conspiracy to violate federal antitrust laws, including price-fixing, bid-fixing, and illegal client allocation. Now, major chemical manufacturers who sell flocculants such as Aluminum Sulfate and Ferric Chloride are being sued by dozens of cities who are claiming triple damages, attorneys’ fees, costs, and interest under the federal Sherman and Clayton Acts. Learn about these lawsuits and how your city can get involved.

2:40pm – 3:40pm

R

---

**Crisis Communications and Reputation Management for Attorneys and Their Clients- Part 1**

Indigo CG

*Moderators: Sheryl King Benford*

*Speakers: Bruce Hennes*

This presentation will be a two part session on crisis communication. In the first hour, which is a repeat of his highly rated and successful presentation in Las Vegas, a veteran crisis communications and media specialist will focus on a highly-strategic approach to communicating during a wide variety of situations, offering methods

2:40pm – 3:40pm

R

for establishing and maintaining “control of the message,” enabling you to move your message forward or mount a defense against a sudden press onslaught. This presentation will help attorneys manage the media and communicate their message, particularly in the age of “gotcha” journalism

---

**Data Breach Trends: What Local Government Lawyers Need to Know**

Aqua Salon 300

*Speakers: Melodi (Mel) Gates, Zach Ratzman*

2:40pm – 3:40pm

R

This presentation will focus on legal trends and legal considerations related to cyber security issues.

---

**Health and Environment Section Meeting**

Aqua E

2:40pm – 3:40pm

R

*Speakers: Rebecca Andrews, Jennifer Lynch, Gene Tanaka(Chair)*

---

**Land Use Section Meeting: “A decade after Kelo”**

Indigo D

*Speakers: Julian Grant(Co-Chair), Andrew Schwartz, Sarah Sigman, Susan Trevarthen(Co-Chair)*

2:40pm – 3:40pm

R

This presentation will examine the impact of the case- and the statutes that it spawned - on redevelopment and eminent domain across the country

---

**Local Government Appellate Practice**

Indigo H

*Moderators: Walter Chung*

*Speakers: Honorable Duane Benton, Kira Klatchko, Lisa Soronen*

Local government appeals are a specialty, and practice differs in state court, federal court, and the United States Supreme Court. The panel will discuss practical considerations in approaching local government appeals, from crafting arguments to getting amicus support. This session will also cover hot topics in appeals that may be coming across your desk soon.

2:40pm – 3:40pm

R

---

**Personnel Section Meeting: Dealing with Conduct of Elected Officials and their Interactions with Municipal Employees**

Aqua Salon D

2:40pm – 3:40pm

R

*Speakers: Dan Crean(Co-Chair), Robin Cross(Co-Chair)*

---

**Synthetic Turf – Issues for Local Government**

Aqua Salon F

*Moderators: Patrick Baker*

*Speakers: William Anderson, Renee Kalmes*

The Issue: Synthetic turf fields have become very popular in the last few years and have been installed in many universities, high schools, recreational fields and playgrounds around the country. Many of those fields contain “crumb rubber,” essentially ground-up tires used to fill the space between the grass blades. The

2:40pm – 3:40pm

R

question is whether this crumb rubber poses a health risk to children and others using these fields. The crumb rubber bits readily attach to shoes and clothes and may generate small releases of certain gases and metals, some of which are known carcinogens. California is currently reviewing the safety of these fields, and Congress has asked the CPSC and EPA to investigate. Recent health reviews have raised a new issue – whether crumb rubber contains “carbon nanotubes” that act like asbestos fibers. Scientific studies to date thus have not documented a risk to field users, but the material used in these fields does contain a number of chemicals and metals that are targets of the criticisms and claimed potential health risks and could present a litigation risk. The risk of litigation is increased if the claim regarding carbon nanotubes in crumb rubber gains traction because of the comparison to asbestos fibers. The concern over possible health effects has created issues for governmental entities that have already installed crumb rubber fields. There is a threat, at least, of pressure to remove these fields, and cities and counties that have them in place will need to assess the risk, make decisions, and defend those decisions. Governmental entities that have these fields need to be conversant regarding the above controversy and prepared to defend the safety of their fields if they become the subject of attacks. Others who are looking at installing synthetic fields may need to address community concerns or criticisms and justify decisions regarding the type of field to be installed.

---

**2016 Scholarship Recipient - “Emerging Privacy Concerns in the Municipal Sector”**

Aqua Salon ABC

3:15pm – 3:40pm

C *Speakers: Shaneka Taylor*

---

**Afternoon Networking Break**

3:40pm – 3:55pm

C Aqua Salon ABC

**Break**

3:40pm – 3:55pm

N Indigo West Foyer

---

**“Is Paramourncy no longer paramount?- Municipal regulatory authority over Federal undertakings post Rogers v. Chateauguay”**

Aqua Salon ABC

3:55pm – 4:20pm

C *Speakers: Christopher Williams*

---

**Crisis Communication: Part 2**

Indigo CG

*Moderators: Sheryl King Benford*

*Speakers: Bruce Hennes*

This presentation includes instruction for attorneys about the following: •Exactly what DO you do when a reporter calls & the pre-interview •Constructing Key Messages (i.e. exactly how to give reporters sound bites, instead of legal briefs) •Alternatives to “no comment” •How to effectively use “off-the-record” and “not for attribution” •Extensive Q&A (which is too difficult to do during a plenary)

3:55pm – 4:55pm

R

---

**Cybersecurity Basics: Data Breach Prevention & Response**

Aqua Salon 300

3:55pm – 4:55pm

R *Speakers: Melodi (Mel) Gates, Zach Ratzman*

---

This presentation will provide a practical overview of data breach prevention and response including what measures to put in place, questions to ask your IT group, how to manage through a breach.

---

**Finance/Economic Development Section Meeting**

Indigo D

3:55pm – 4:55pm

R *Speakers: Clay Binford, Robert Doty(Co-Chair), Julian Grant(Co-Chair), Dave Sanchez*

---

**IMLA/MCC Listserv Meeting**

Aqua Salon D

3:55pm – 4:55pm

R *Speakers: Lawton Langford*

---

**Repeat: Antitrust Actions: Why Cities Paid Too Much for Water Chemicals**

Aqua 310

*Speakers: John Fiske, Scott Summy*

In 2015, a former executive from a major chemical manufacturing company pleaded guilty to conspiracy to violate federal antitrust laws, including price-fixing, bid-fixing, and illegal client allocation. Now, major chemical manufacturers who sell flocculants such as Aluminum Sulfate and Ferric Chloride are being sued by dozens of cities who are claiming triple damages, attorneys' fees, costs, and interest under the federal Sherman and Clayton Acts. Learn about these lawsuits and how your city can get involved.

3:55pm – 4:55pm

R

---

**Repeat: Local Government Appellate Practice**

Indigo H

*Moderators: Walter Chung*

*Speakers: Honorable Duane Benton, Kira Klatchko, Lisa Soronen*

Local government appeals are a specialty, and practice differs in state court, federal court, and the United States Supreme Court. The panel will discuss practical considerations in approaching local government appeals, from crafting arguments to getting amicus support. This session will also cover hot topics in appeals that may be coming across your desk soon.

3:55pm – 4:55pm

R

---

**Repeat: Synthetic Turf – Issues for Local Government**

Aqua Salon F

*Moderators: Patrick Baker*

*Speakers: William Anderson, Renee Kalmes*

The Issue: Synthetic turf fields have become very popular in the last few years and have been installed in many universities, high schools, recreational fields and playgrounds around the country. Many of those fields contain “crumb rubber,” essentially ground-up tires used to fill the space between the grass blades. The question is whether this crumb rubber poses a health risk to children and others using these fields. The crumb rubber bits readily attach to shoes and clothes and

3:55pm – 4:55pm

R



may generate small releases of certain gases and metals, some of which are known carcinogens. California is currently reviewing the safety of these fields, and Congress has asked the CPSC and EPA to investigate. Recent health reviews have raised a new issue – whether crumb rubber contains “carbon nanotubes” that act like asbestos fibers. Scientific studies to date thus have not documented a risk to field users, but the material used in these fields does contain a number of chemicals and metals that are targets of the criticisms and claimed potential health risks and could present a litigation risk. The risk of litigation is increased if the claim regarding carbon nanotubes in crumb rubber gains traction because of the comparison to asbestos fibers. The concern over possible health effects has created issues for governmental entities that have already installed crumb rubber fields. There is a threat, at least, of pressure to remove these fields, and cities and counties that have them in place will need to assess the risk, make decisions, and defend those decisions. Governmental entities that have these fields need to be conversant regarding the above controversy and prepared to defend the safety of their fields if they become the subject of attacks. Others who are looking at installing synthetic fields may need to address community concerns or criticisms and justify decisions regarding the type of field to be installed.

---

**“Tort Liability for Public Authorities – A Public Law Approach”**

Aqua Salon ABC

4:20pm – 4:50pm

C *Speakers: Barry Weintraub*

---

**IMLA Canada Elections & Closing Remarks**

4:50pm – 5:00pm

C Aqua Salon ABC

**B**BOD Meeting

**C**Canada

**F**Code Enforcememnt

**M**Committee Meeting

**R**Concurrent

**D**Department Meeting

**G**General Conference

**I**LGL

**N**Networking

**S**Section Meeting

**T**Tours

**W**Working Group

**K**Workshop

---

**OCTOBER 1 • SATURDAY**

---

**Registration**

7:00am – 5:00pm

Indigo West Foyer

---

**WONK Breakfast**

7:30am – 8:30am

N Indigo Terrace

9:00am – 10:30am

**G Body Worn Cameras: From Policy Considerations to Boots on the Ground Deployment**

Indigo AE

*Moderators: Karen Kennard*

*Speakers: Professor Richard Myers, Jack Ryan*

The first part of this presentation will discuss the array of legal and policy considerations associated with the deployment of body-worn video for law enforcement. Among the considerations will be creation, storage, access, retention, evidentiary limitations and chain of custody. Creating the right constellation of participants early on — police, prosecutors, the press, the public and politicians — will lead to policies that appropriately consider and then balance the interests of each. The next presenter will focus on the practical limitations of body cameras. While the public and many officials are getting in line for body cameras because they believe body cameras will show us the “truth,” this presentation will reveal the flaw in that logic, including the weaknesses with the use of body cameras. The final part of this presentation will provide a practical discussion of the boots on the ground experience in Duluth, Minnesota. Two years after their deployment, this presenter will discuss what they’ve learned about body cameras, basic data retention mechanics, cost of data retention / storage as well as how to prepare for trial with video evidence from body cameras.

---

**Telecommunications - New Challenges for Local Counsel in a Broadband World: Why Public Safety, Economic Development, Planning and Zoning and Elected Officials Will Be Knocking On Your Door**

Indigo CG

*Moderators: Mike Watzka*

*Speakers: Joseph Van Eaton, Barry Fraser, Brian Grogan, Gail Karish*

Local elected officials across the nation are attempting to make their cities “Gigabit Cities,” through public-private partnerships, by adopting regulations that make it easier for companies to deploy wireless and wireline networks, or by building municipally-owned systems to deploy advanced broadband networks. The first part of this presentation will discuss the role of attorneys in shaping those efforts and key cases where local efforts to deploy broadband networks are being challenged in the courts. Next, the presenters will shift gears and discuss the active role Congress, the FCC and the courts have had in shaping communications policy in 2016. With a month to go for the presidential and congressional elections, this presentation seeks to explain the impact of these actions on municipal oversight of wired and wireless communications infrastructure. The presenters will also discuss the federal government’s issuance of an RFP for a national public safety network (FirstNet) that could dramatically affect public safety communications in your community and create significant budgetary and legal challenges for municipal governments. This presentation will provide background on the FirstNet initiative and what you need to watch for as a municipal attorney. Finally, the panel will cover the impact of 2015/2016 FCC decisions and recent court cases impacting the delivery of cable television and broadband services in communities – with a particular emphasis on the compensation that municipalities may obtain (or lose) based on these decisions.

9:00am – 10:30am

G

---

**Break**

10:30am – 10:45am

N Indigo West Foyer

---

**Hot Topics under Section 1983: Litigating Deadly Force Claims; Malicious Prosecution Claims; & Arrest and Custody Issues Involving the Mentally Ill**

10:45am – 12:15pm

G Indigo AE

---

*Moderators: Mark Hayes*

*Speakers: Melinda Barlow, Moses Johnson, John Wilkerson*

The first presentation will focus on the standard for granting summary judgment to a police officer defendant in a case asserting claims for deadly force under the 4th Amendment and whether such a standard is more stringent than that set forth in FRCP 56. The next presentation will examine malicious prosecution claims under Section 1983, including the pending Supreme Court case *Manuel v. City of Joliet* and its implications for municipalities. The third presentation will discuss liability under Section 1983 for police officers' failure to provide medical care for the mentally ill or for individuals under the influence of drugs. After delving into a harrowing example of such a case from her own litigation experience, the presenter will provide an overview of court decisions in the area, including those that found organizational liability.

---

### **Negotiating and Administering Effective Claims and Change Procedures in Public Construction Contracts**

Indigo CG

*Moderators: Mary Ellen Bench*

*Speakers: John Ridilla, Steven "Tip" Torres*

This program will introduce municipal practitioners to effective, owner-protective change order and claims language and procedures to use in Public Contracts. Working with two experienced municipal construction attorneys, one of whom is also a registered professional engineer, participants will explore the key elements for change order notice, cost-substantiation, pricing change orders, owner directed changes, dispute resolution and the role of the A/E in the change order process. Participants will be exposed to different change order provisions commonly used in contracts and will learn the "traps for the unwary" that arise from application of standard, industry-driven change order processes. Participants will review actual case studies applying various claims and change order provisions in payment disputes arising under a contract and see how the language you draft and how you administer the procedure can drastically impact the outcome of the claim and the final price of the work.

10:45am – 12:15pm

G

---

### **Lunch (On your own)**

12:15pm – 2:00pm

N San Diego

---

### **Applicant Testing: How to Select the Best Applicants, Comply with EEO and Validation Requirements and Avoid Class Actions**

Indigo CG

*Moderators: Christina Milligan*

*Speakers: Tammy Daub, Kenneth Willner*

As reflected in the many cases brought to challenge testing for police and firefighters (and other jobs too), legal challenges to municipalities' testing of applicants for hire and promotion have increased. DOJ and EEOC are focused on such systemic selection practices and the plaintiffs' class action bar is searching for "common" practices on which to sue. This presentation addresses how to avoid or defeat such litigation, while assuring your test identifies the best-qualified applicants, via appropriate design and validation of tests (and procuring and supervising test vendors).

2:00pm – 3:00pm

R

### **Dangerous Dogs/Feral Cats**

Aqua Salon ABC

*Speakers: Lee Greenwood, Ledy VanKavage*

This presentation will provide a discussion on creating effective and humane dangerous dog and community cat laws. The first part of the presentation will focus on how to write dangerous dog laws that work at creating safe communities (and how to avoid bad laws that do not reach this goal). The second part of the presentation will discuss reducing the community cat (feral or free-roaming cats) population in the most effective and humane way possible.

2:00pm – 3:00pm

R

---

### **Illicit Massage Businesses: How Strong Codes and Partnerships with NGOs Can Help Cities Win Against Human Trafficking**

Indigo H

*Moderators: Rusi Patel*

*Speakers: Scott Bergthold, Oriene Shin*

Polaris, a leader in the global fight to eradicate human slavery, has trained the DOJ, the FBI, and law enforcement agencies nationwide on human trafficking issues. Based on extensive data compiled from its National Human Trafficking Resource Center hotline over the last 8 years, Polaris has identified Illicit Massage Businesses (IMBs), which currently number about 6,500 in the U.S., as the source of approximately 2,000 potential human trafficking cases. This session will address how local governments can combine strong codes and partnerships with anti-trafficking organizations to stop human trafficking and connect victims to critical assistance.

2:00pm – 3:00pm

R

---

### **Litigation Section Meeting**

Indigo D

2:00pm – 3:00pm

R *Speakers: Sara Teague(Co-Chair), Ashley Ulbricht, John Wilkerson(Co-Chair)*

---

### **Overview of Federal Stormwater Regulations and Local Implementation**

Aqua Salon D

*Moderators: Iris Jones*

*Speakers: Ade Bakare, Scott Gould, Stephen Matzura*

This presentation will review recent changes to federal stormwater regulations affecting municipalities and other public bodies across the country. The presenters will provide an overview of the recent amendments to the Environmental Protection Agency's Small MS4 Stormwater Program and, using state-specific examples, address the impacts upon state and local municipal stormwater permitting. The presenters will also discuss stormwater management solutions for meeting Federal permitting requirements, including the formation of public entities as vehicles for addressing the requirements, and the development of stormwater management plans and rate structures.

2:00pm – 3:00pm

R

---

### **Sign Law after Reed v Town of Gilbert**

Indigo AE

2:00pm – 3:00pm

R *Speakers: Randal Morrison, Susan Trevarthen*

The reports of the death of sign regulation have been greatly exaggerated. Lower federal courts have overwhelmingly held that cities can continue to regulate off premise signs and commercial signs, but there are significant new areas of potential challenges to sign regulations and other local regulations of First Amendment-protected speech. Hear from the experts about strategies and tactics for defensible and practical sign regulation in the post-Reed era, including issues such as temporary sign regulation, the role of preambles and definitions, permit requirements, exemptions, the treatment of government signs, enforcement and procedures. The speakers will discuss regulatory strategies appropriate to different kinds of communities (small/large, urban/rural, growth-focused/regulation-focused).

---

### **Trial Preparation and Trial Techniques**

Indigo BF

*Moderators: John Riley*

*Speakers: Tamara Baines*

In today's litigious society, allegations of police misconduct are on the rise. This increase has been largely fueled by the media's sometimes slanted coverage of police misconduct cases, which can prejudice potential jurors against municipal and officer clients even before a lawsuit is filed. Despite what can appear to be insurmountable odds against your clients, a case is very seldom lost on the facts. Rather, victory often depends on the lawyers' ability to develop a real-time plan for handling the case the moment the complaint is served. This session will take you through a case from start to finish and provide practical tips for each stage of the process from the development of your theory of the case; selection of jurors; preparation of your client for cross examination; and opening statements and closing arguments.

2:00pm – 3:00pm

R

---

### **University Cities Meeting: Hot Topics for University Cities Roundtable**

Aqua Salon 310

2:00pm – 3:00pm

R *Speakers: Tom Carr, John Dorman, Michael May, Dennis McGrath*

---

### **Break**

3:00pm – 3:15pm

N Indigo West Foyer

---

### **International Committee Meeting**

Aqua Salon 310

3:15pm – 4:15pm

R *Speakers: Cyvette Gibson, Ben Griffith(Chair)*

---

### **Repeat: Applicant Testing**

Indigo CG

*Moderators: Christina Milligan*

3:15pm – 4:15pm

R *Speakers: Tammy Daub, Kenneth Willner*

---

### **Repeat: Dangerous Dogs/Feral Cats**

Aqua Salon ABC

3:15pm – 4:15pm

R *Speakers: Lee Greenwood, Ledy VanKavage*

---

This presentation will provide a discussion on creating effective and humane dangerous dog and community cat laws. The first part of the presentation will focus on how to write dangerous dog laws that work at creating safe communities (and how to avoid bad laws that do not reach this goal). The second part of the presentation will discuss reducing the community cat (feral or free-roaming cats) population in the most effective and humane way possible.

---

**Repeat: Illicit Massage Businesses: How Strong Codes and Partnerships with NGOs Can Help Cities Win Against Human Trafficking**

Indigo H

*Moderators: Rusi Patel*

*Speakers: Scott Bergthold, Oriene Shin*

Polaris, a leader in the global fight to eradicate human slavery, has trained the DOJ, the FBI, and law enforcement agencies nationwide on human trafficking issues. Based on extensive data compiled from its National Human Trafficking Resource Center hotline over the last 8 years, Polaris has identified Illicit Massage Businesses (IMBs), which currently number about 6,500 in the U.S., as the source of approximately 2,000 potential human trafficking cases. This session will address how local governments can combine strong codes and partnerships with anti-trafficking organizations to stop human trafficking and connect victims to critical assistance.

3:15pm – 4:15pm

R

---

**Repeat: Overview of Federal Stormwater Regulations and Local Implementation**

Aqua Salon D

*Moderators: Iris Jones*

*Speakers: Ade Bakare, Scott Gould, Stephen Matzura*

This presentation will review recent changes to federal stormwater regulations affecting municipalities and other public bodies across the country. The presenters will provide an overview of the recent amendments to the Environmental Protection Agency's Small MS4 Stormwater Program and, using state-specific examples, address the impacts upon state and local municipal stormwater permitting. The presenters will also discuss stormwater management solutions for meeting Federal permitting requirements, including the formation of public entities as vehicles for addressing the requirements, and the development of stormwater management plans and rate structures.

3:15pm – 4:15pm

R

---

**Repeat: Sign Law after Reed v Town of Gilbert**

Indigo AE

3:15pm – 4:15pm

R *Speakers: Randal Morrison, Susan Trevarthen*

---

**Repeat: Trial Preparation and Trial Techniques**

Indigo BF

*Moderators: John Riley*

*Speakers: Tamara Baines*

In today's litigious society, allegations of police misconduct are on the rise. This increase has been largely fueled by the media's sometimes slanted coverage of police misconduct cases, which can prejudice potential jurors against municipal and officer clients even before a lawsuit is filed. Despite what can appear to be

3:15pm – 4:15pm

R

insurmountable odds against your clients, a case is very seldom lost on the facts. Rather, victory often depends on the lawyers' ability to develop a real-time plan for handling the case the moment the complaint is served. This session will take you through a case from start to finish and provide practical tips for each stage of the process from the development of your theory of the case; selection of jurors; preparation of your client for cross examination; and opening statements and closing arguments.

---

### **Telecommunication & Franchise Section Workshop Meeting**

Indigo D

3:15pm – 4:15pm

R *Speakers: Mike Watza*

---

### **IMLA's 2016 Annual World Series**

Robb Field (2525 Bacon St, San Diego, CA 92107)

Separate registration is required.

4:45pm – 7:45pm

N A special thank you to our sponsor Best Best & Krieger

---

## **OCTOBER 2 • SUNDAY**

---

### **Registration**

7:00am – 12:00pm

Indigo West Foyer

---

### **Business Meeting**

8:00am – 8:45am

G Indigo ABEF

---

### **Annual Review of Cases that Affect Local Government: The Good, the Bad, and the Funny**

Indigo ABEF

*Moderators: William Mann*

*Speakers: Douglas Haney*

This presentation will provide an overview of all of the most recent Supreme Court decisions that impact local government as well as a review of certain highlighted Circuit Court cases from around the country that are relevant to local governments including everything from employment law cases to First Amendment and police misconduct cases. Buckle your seatbelt for this annual hit!

8:45am – 9:45am

G

---

### **Break**

9:45am – 10:00am

N Indigo West Foyer

---

### **“Debtor’s Prison” Litigation**

Indigo ABEF

*Moderators: Rusi Patel*

10:00am – 11:00am

G *Speakers: Chris Edwards, Robin Harris, The Honorable Sherry Statman, Ryan Turner*

---

This panel will take a look at the recent national trend of “debtor’s prison litigation.” These so-called debtor prison cases stem from the ACLU and DOJ’s recent efforts to stamp out what they claim are situations of state and local courts jailing people based on their inability to pay fines and fees. The City of Austin recently prevailed on a Rule 12(b)(6) Motion to Dismiss a class action lawsuit, claiming that Municipal Judges were imprisoning indigent citizens for misdemeanor criminal offenses in violation of their civil rights under 42 USC 1983. During this presentation, Judge Statman will address the Austin Municipal Court operations, the view from the bench for Judges, and best practices administratively for court administrators in light of Harris. Chris Edwards will discuss the lawsuit against the City which was dismissed, as well as the lawsuit against our Judges which is forthcoming. Robin Harris will speak on applicable Texas laws, and offer an overview of lawsuits across the nation, as well as the view from the other side of the bench.

---

**Ethics and the Municipal Lawyer: Common and Not-So-Common Issues Among Retained and In-House Counsel**

Indigo ABEF

*Moderators: Leah Hayes*

*Speakers: Daniel Crean, Sheila Gladstone*

Municipal lawyers know from “Ethics 101” that their clients are their respective “municipal entities.” From that simple statement flow any number of concerns as to the manner in which the counsel and client relationship is conducted. Through interactive discussion, interesting scenarios and analysis, this session looks at selected issues from both perspectives in areas such as: confidentiality, accountability and reporting, conflicts, communications, and relationships with municipal officials and administrators.

11:05am – 12:05pm

G

---

**Adjournment**

12:05pm – 12:30pm

Indigo West Foyer

---