

Tort Talk Tracks Litigation Trends

■ By Annie M. Kelley

ATTORNEYS ARE ALWAYS LOOKING FOR new research tools and ways to keep up on the latest cases and trends in Pennsylvania. Insurance defense attorney Daniel E. Cummins' "Tort Talk" blog (www.torttalk.com) provides exactly that — updates, trends and thoughts regarding Pennsylvania civil litigation law.

Cummins is the creator and writer of Tort Talk, which has been selected and honored by both the *ABA Law Journal*

and LexisNexis as one of the top insurance law blogs, as well as one of the Top tort law blogs in the United States. Cummins gave a very informative and entertaining presentation on current tort law, filled with video clips from popular television shows and movies, at the Nov. 6 meeting of the Rules and Procedure Committee.

Cummins initially started the blog as an extension of what he learned as a law clerk. By reading updates and Pennsylvania Law Weekly, Cummins established

the site as a research and educational tool. Tort Talk has a variety of search tools, including narrowing research to a particular topic. Through "search this blog," one can type in any topic and scroll through a list of relevant cases.

Another helpful tool on the blog is the Post-Koken Scorecard, wherein automobile cases since the Koken decision are sorted county by county in a comprehensive list. There is also a Facebook Discovery Scorecard and Products Liability Restatement Scorecard, which, similarly,



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are continually updated with new decisions on these hot topics.

Tort Talk also provides links to other websites and blogs, and is a good place to start legal research on a particular topic and to stay on top of recent cases of note. Cummins brought attention to notable cases and changes in rules that affect Pennsylvania civil litigation.

Cummins pointed out that Pennsylvania Rule of Civil Procedure 212.3 may require by order that various parties attend the pre-trial conference, including an insurance or similar representative who has authority to negotiate and settle the case. Even if not specified in an order, regardless, they may be required to be promptly available by phone. Cummins recommended that one way to preemptively address this issue is to talk to opposing counsel and request to the judge that a claims representative participate by phone.

By way of hot legal topics, Cummins brought attention to cell phones and punitive damages, noting that there is a split of authority of whether punitive damages are allowed in an accident claim caused by a driver using a hand-held device. Likewise, there is no appellate court decision for concrete guidance on Facebook discovery issues. Here, a split of authority appears to be trending toward no constitutional right to privacy or privilege to prevent disclosure, especially on a public page. A good practice tip is to include interrogatories including username and password, and to cover these questions at depositions as well.

The issue of whether discovery of communications between an attorney and a medical expert is also expected to be a recurring issue. Post-Koken issues such as consolidation versus severance, bad faith claim split from UIM claim, trial evidence of assurance, and delay damages, are all trial issues that can be easily researched on the Scorecard features on Tort Talk.

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December CLE Calendar

*These CLE programs, cosponsored by the Philadelphia Bar Association will be held at The CLE Conference Center
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unless otherwise noted.*

Live & Simulcast Seminars

- Dec. 2 • Corporate Compliance and Ethics
- Handling Multi-jurisdictional Child Custody Disputes
- PA Inheritance Tax Exemption for Family Owned Business Interests
- Dec. 4 • MBA Concepts for Lawyers
- Success with Summary Judgment Motions - How to Win Before Trial
- Dec. 5 • Primer on Mechanics' Liens and Bond Claims
- Dec. 5-6 • 17th Annual Real Estate Institute (PA Convention Center)
- Dec. 6 • From File to Trial: 8 Keys to Success in Court and Beyond
- Dec. 9 • Municipal Liability Actions
- Dec. 10 • CLE Ethics Fun with Sean Carter
- Restrictive Covenants and Computer Forensics: Your Guide for Drafting, Enforcing, Defending & Investigating
- Dec. 11 • Time Mastery for Lawyers
- 2013 Public Interest Law Day
- Dec. 12 • How to Prepare Federal Estate & Gift Tax Returns
- ETHICS POTPOURRI
- Abe Lincoln, Sydney Carton & the Art of Aspiration
- Intersection of Baseball & the Law
- Law Marketing & Advertising Ethics
- Fee Practices, Pointers & Traps of Fee Agreements
- Privilege Worth Protecting?: Brining Third Parties into Attorney-Client Interviews
- Assisting a Colleague in Distress
- Dec. 13 • Fixing the Failed Development Project in the Common Interest Community
- Sophisticated Issues for Family Lawyers
- Current Issues in Nursing Home Litigation
- Dec. 17 • Collecting & Enforcing Judgments
- Drafting a Last Minute Estate Plan for a Sick or Dying Client
- Retirement Planning for Attorneys
- Dec. 18 • iPad for Legal Professionals (AM: Intro & iPad Basics; PM: Advanced iPad Topics)
- Dec. 19 • Steve Stark: (A) Legal Writing & Persuasion in the Smart Phone Age; (B) Speaking to Win
- Criminal Law Update 2013
- Dec. 20 • IP Law Primer

Video Seminars

- Dec. 3 • How to Handle a Workers' Comp Mediation
- Dec. 5 • Law Marketing & Advertising Ethics
- Dec. 9 • Litigation Technology Workshop
- Dec. 16 • Abe Lincoln, Sydney Carton & the Art of Aspiration
- Working OUT: Developments in the Employment, Labor and Benefits Law for LGBT Individuals in Pennsylvania
- The Anatomy of Pennsylvania's New P3 Infrastructure Act
- Dec. 19 • Privilege Worth Protecting?
- Dec. 20 • Tackling the Tiger of E-Discovery: Real-World Perspectives from the Bench, Bar and Consultant/Vendor Worlds
- Dec. 23 • Drafting Employee Handbooks
- Dec. 27 • Buying a Vacation Home
- Abe Lincoln, Sydney Carton & the Art of Aspiration
- Dec. 30 • Death & Taxes
- Dec. 31 • Title Insurance 101

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- Dec. 2 • Corporate Compliance and Ethics
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- Dec. 9 • Municipal Liability Actions
- Dec. 12 • Criminal Law Update 2013
- Dec. 17 • Collecting & Enforcing Judgments
- Dec. 19 • 20th Annual Auto Law Update
- Dec. 20 • IP Law Primer

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