

## Registration Form

**Mealey's MTBE & USTs Litigation Conference**, December 6-7, 2004, at The Sheraton Hotel and Towers NYC, New York. I understand the conference registration fee is \$1095 per attendee for the first paying attendee and \$945 for each attendee thereafter from the same firm or company. (Multiple attendees: please copy form and submit for **each** attendee.)

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YES, I'm interested in purchasing the audiotope of this conference. (Please call with pricing information.)

Conference Handbook — Each conference attendee will receive one copy of the handbook. You may order additional copies. Non-registrants may purchase the handbook. Please send \_\_\_\_\_ copies @ \$250 each. (U.S.A.: Please add appropriate state sales tax to your order. Canada: Add 7% sales tax.)

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## Registration Information

### Registration Fee

The registration fee includes continental breakfast each day, one luncheon, attendance at all conference sessions, a copy of the conference handbook on CD, networking reception, and coffee breaks. The registration fee is \$1095 for the first attendee.

### How to Register

Fax is the best way to enroll, allowing us to attend to your registration immediately. Please fax this form to (610)768-0303, call 1-800-MEALEYS, (610)768-7800, e-mail [mealeyseminars@lexisnexis.com](mailto:mealeyseminars@lexisnexis.com) or mail this form with payment to Mealey Publications, P.O. Box 62090, King of Prussia, PA 19406-0230. Receipt of payment guarantees your registration.

### Special Discounts

- Corporate Discount — \$200 off — \$895
- Additional registrants from the same firm or company — \$150 off — \$945
- Government employees — one-third off — \$730
- Sitting judges — attend free
- Paralegals — two-thirds off — \$365

### Special Needs

Should you have any special needs, please contact Mealey's at least three weeks prior to the conference, to allow us time to make reasonable accommodations.

### Hotel Accommodations

The Sheraton Hotel and Towers NYC is located at 811 7th Avenue on 53rd Street, just 45 minutes from Newark Liberty International Airport. Attendees should make reservations directly with the hotel by calling 212-581-1000. When making reservations, indicate that you are attending LexisNexis®/Mealey's MTBE & USTs Litigation Conference, December 6-7, 2004. A block of rooms has been reserved for attendees at a rate of \$329 a night for a single or double room. The cut-off date for this rate is November 12th. After that date, this rate will be offered based on space availability. Please note, there are a limited number of rooms in our room block so make your reservations early.

For alternative hotels and rates, please call us at (610) 768-7800.

### Cancellation Policy

Registrants who cancel on or before November 22nd will receive a full refund. Registrants cancelling from Nov. 23-29 will receive a full credit towards another Mealey's conference. Cancellations made after November 29th will be subject to a 25% administrative fee; the remaining amount will be credited towards another Mealey's conference. Credits must be used within one year of the date of issuance. Substitutions may be made at any time.

### Conference on Audiotape

If you cannot attend this conference, take advantage of our new audiotape conference service. For more information call 1-800-MEALEYS or e-mail [mealeyseminars@lexisnexis.com](mailto:mealeyseminars@lexisnexis.com)

### CLE Credit

Credits will be available from all states with mandatory requirements. For more information visit [www.mealeys.com/conferences](http://www.mealeys.com/conferences) and click on 'CLE Credit', or call 1-800-MEALEYS.

## Why you should attend:

MTBE litigation has changed significantly in the last six months.

Operators of water utilities all over the country have come forward as the new plaintiffs in MTBE litigation, with more than 50 cases filed in the fourth quarter of 2003. Transferred to the U.S. District Court for the Southern District of New York under a tag-along provision, presiding MDL Judge Shira A. Scheindlin is considering a joint motion to remand.

At the same time, gasoline industry defendants have filed a suit for declaratory judgment in each of the transfer courts on the grounds that the suits filed by the utilities are preempted under the Clean Air Act and other federal officer defenses.

Other developments include: the ruling that the New York state ban of gasoline with MTBE is not preempted by the federal Clean Air Act; the complaint filed in federal court by four major refiners seeking a declaration that federal law preempts some 50 suits seeking to recover damages; and the approval of the \$312 million settlement agreed upon by Santa Monica and the settling parties in the Charnock well field suit.

Of the many uncertainties facing MTBE defendants and plaintiffs across the country now and in the immediate future, one thing is for sure: the stakes are high and now is not the time to be caught unaware.

## What you will learn:

**Mealey's MTBE & USTs Litigation Conference** is a comprehensive program that offers you the unique opportunity to hear expert speakers and leading litigators share their experience, knowledge, and insight on the issues facing plaintiffs, defendants, and insurers. You'll get the nuts and bolts of prosecuting or defending your case, including practical information on damages calculation and property valuation, expert admissibility, insurance claims, and effective trial strategies — to name a few.

Conference co-chairs **Stanley N. Alpert, Esq.**, of Weitz & Luxenberg, P.C. in New York and **John J. Lyons, Esq.**, of Latham & Watkins LLP in Los Angeles lead a renowned faculty to provide you with critical updates on many of the hot-topic issues in the litigation. Join us and you will:

- Examine the current state of MTBE & UST litigation
- Study the legal theories of liability and defenses
- Investigate toxicology related to gasoline and its constituents
- Survey insurance coverage and public enforcement issues
- Delve into methods for source tracking and environmental remediation
- Review the future of MTBE: legislation, litigation, and resolution

You'll do more than just listen, though. The conference agenda also provides you with many opportunities to raise issues specific to your case work, meet one-on-one with faculty members, and network with colleagues from across the country.

Exhibitors Include:

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# MEALEY'S MTBE & USTs Litigation Conference

A new program with new insights  
into the new wave of MTBE suits!

Conference Chaired by  
**Stanley N. Alpert, Esq.**  
Weitz & Luxenberg, P.C.  
New York

**John J. Lyons, Esq.**  
Latham & Watkins LLP  
Los Angeles

## December 6-7, 2004

The Sheraton Hotel and Towers NYC  
New York

# Mealey's MTBE & USTs Litigation Conference

## Conference Chairs:

**Stanley N. Alpert, Esq.**, is head of the Environmental Toxic Tort Unit at the New York law firm of Weitz & Luxenberg, focusing his practice on environmental and toxic tort matters, such as MTBE litigation against the oil industry, and actions for injury to people or damages to property from a host of environmental contaminants. He is Plaintiffs' Liaison Counsel to MDL 1358 in the Southern District of New York, coordinating well over a hundred law suits against the oil industry for MTBE contamination of people's drinking water. He is Co-Chair of the Toxic Torts Committee, Environmental Law Section, New York State Bar Association. Mr. Alpert received his B.S. from Binghamton University (SUNY) and his J.D. from the University of Pennsylvania.

**John J. Lyons, Esq.**, is a seasoned trial partner and the former chairman of the Los Angeles Litigation Department at Latham & Watkins. Mr. Lyons has a broad array of expertise which has centered in the last ten years on mass toxic torts, large product liability claims, environmental disputes and insurance claims relating to all of these areas. He recently concluded a ten-month trial concerning allegations that MTBE gasoline constitutes a defective product and he acts as the national coordinating defense counsel for ConocoPhillips for such claims, including both personal injury and property damages claims. Mr. Lyons graduated from Dartmouth College and the University of California (Berkeley) Law School.

## Monday, December 6, 2004

**7:30 Registration & Continental Breakfast**

**8:30 Welcome & Introductory Remarks**

**8:45 A Brief Historical Overview and Current State of MTBE Litigation**

- Jurisdiction & Forums
- Federal officer & preemption jurisdiction
- The MDL

**Plaintiff:** Stanley Alpert, Weitz & Luxenberg

**Defense:** John Lyons, Latham & Watkins

**9:15 Legal Theories of Liability & Defenses in MTBE/UST Litigation**

- Products liability
- Negligent failure to warn
- Nuisance trespass
- Natural Resource Damages and Other Sovereign Rights

- Other non-traditional theories
- Preemption
- Statute of Limitations
- Below Maximum Contamination Level

**Plaintiff:** Victor Sher, Sher Leff

**Defense:** Scott Pasternack, Assistant Corporation Counsel, Environmental Law Division, New York City Law Department

**10:15 Morning Break**

**10:30 Toxicology Related To Gasoline and Its Constituents**

- Use of animal studies to infer toxic effects in humans
- Are there any actual or potential human health effects of MTBE? Benzene? Others? If so, what are they?
- What levels of exposure might impact human health?
- Could medical monitoring and/or human health damages be required?
- Are further studies needed?

**Myron Mehlman, PhD, Mt. Sinai School of Medicine\***

**11:30 Pursuit of Damages by Municipal Water Providers & Private Well Owners**

- Diminution of property value
- Future damage ranges
- Legal measure of damages in various types of MTBE cases
- Taste and Odor
- Economic witness testimony

**Plaintiff:** Laura Baughman, Baron & Budd

**Defense:** Richard Faulk, Gardere Wynne Sewell

**12:30 Networking Luncheon**

**1:30 Technical Issues Regarding Source Identification & Remediation**

- MTBE Degradation Product Ratios
- Surrogate and/or Association Chemicals
- Isotopic Analysis (Soil, Vapor and Groundwater)
- Potential Use of Microbiological Fingerprinting Methods
- Successful Case Studies
- Role of forensic investigation in selecting remedial strategies

**Ioana Petrisor, PhD, Environmental Scientist, DPRA Inc.**

**Additional Speaker to be Announced**

**2:30 Afternoon Break**

**2:45 Insurance Coverage Issues**

- Bodily injury claims: fear of cancer claims
- Application of the absolute pollution exclusion

- Remediation and clean-up of drinking water claims
- EIL coverage
- "Expected" & "intended"
- Indemnification under state UST Trust Funds

**Policyholder Perspective:** Mark Lawless, Nickens Keeton Lawless Farrell & Flack

**Carrier Perspective:** John Yang, Wiley Rein & Fielding

**3:30 Underground Storage Tank Enforcement Issues**

- UST enforcement actions
- Frequency of enforcement
- Centralized vs. decentralized enforcement
- Evidence of improved compliance
- European findings
- Navigation Law Enforcement

**Federal Enforcement:** Speaker to be announced

**State Enforcement:** Rachel Zaffrann, Assistant Attorney General, New York State Attorney General's Office

**Defense:** Daniel Riesel, Sive Paget & Riesel

**4:45 Networking Reception**

## Tuesday, December 7, 2004

**8:30 Continental Breakfast**

**9:00 Lessons Learned in the Trial of MTBE Cases**

A practical discussion of what's worked and what's failed at trial in MTBE cases

- South Lake Tahoe
- OFA & NAFTA Litigation

**Plaintiff:**

**Scott Summy, Baron & Budd**

**Philip Bein, Assistant Attorney General, Environmental Protection Bureau, New York State Attorney General's Office\***

**Defense:** Speakers to be announced

**10:00 Expert Admissibility – The Difficulties with "Modeling"**

Examination of the difficulties faced with admissibility of experts whose opinion is based on extrapolation & modeling

**Plaintiff:** Joseph Gonzalez, Gonzalez & Robinson

**Defense:** Speaker to be announced

**10:45 Morning Break**

## December 6-7, 2004

The Sheraton Hotel and Towers NYC

**11:00 The Future in MTBE Litigation – A Moderated Panel Discussion**

- Legislation
- Litigation
- Resolution

**Plaintiff:**

**Robert Gordon, Weitz & Luxenberg**

**Richard Sandman, Rodman Rodman & Sandman**

**Defense:** Speaker to be announced

**12:00 Adjourn**

Speakers, sessions and times are subject to change. Visit [www.mealeys.com/conferences](http://www.mealeys.com/conferences) or call 1-800-MEALEYS for up to the minute program revisions. Call for information on sponsorship and exhibit opportunities.

## Keep current and gain expert insight at Mealey's 2004 Fall/Winter Conferences:

**Silica Litigation**

October 25-26  
The Ritz-Carlton Hotel  
New Orleans, LA

**E-Discovery**

October 26 – Half-Day seminar  
The Ritz-Carlton Hotel  
New Orleans, LA

**Asbestos Bankruptcy**

December 6-7  
The Sheraton Hotel and Towers NYC  
New York, NY

**Asbestos Premises Liability**

December 9-10  
The Ritz-Carlton Huntington Hotel & Spa  
Pasadena, CA

**Construction Defect & Mold**

December 9-10  
The Ritz-Carlton Lake Las Vegas  
Las Vegas, NV

## Conference Faculty

### Co-Chairs

**Stanley N. Alpert, Esq.**  
Weitz & Luxenberg, P.C.  
New York

**John J. Lyons, Esq.**  
Latham & Watkins LLP  
Los Angeles

### Faculty

**Laura J. Baughman, Esq.**  
Baron & Budd, P.C.  
Dallas

**Ioana G. Petrisor, PhD**  
Environmental Scientist  
DPRA, Inc.  
San Marcos, CA

**Philip M. Bein\***

Assistant Attorney General  
Environmental Protection Bureau  
New York State Attorney  
General's Office  
Albany, NY

**Daniel Riesel, Esq.**  
Sive Paget & Riesel, P.C.  
New York

**Richard O. Faulk, Esq.**  
Gardere Wynne Sewell LLP  
Houston

**Richard M. Sandman, Esq.**  
Rodman, Rodman & Sandman, P.C.  
Malden, MA

**Victor M. Sher, Esq.**  
Sher Leff LLP  
San Francisco

**Scott Summy, Esq.**  
Baron & Budd, P.C.  
Dallas

**John C. Yang, Esq.**  
Wiley Rein & Fielding LLP  
Washington, DC

**J. Mark Lawless, Esq.**  
Nickens Keeton Lawless Farrell  
& Flack LLP  
Austin, TX

**Myron A. Mehlman, PhD\***  
Mount Sinai School of Medicine  
Princeton, NJ

**Scott Pasternack, Esq.**  
Assistant Corporation Counsel  
Environmental Law Division  
New York City Law Department  
New York, NY

\* Invited