



2024 Winter Conference

December 13, 2024

Milwaukee Marriott West
W231N1600 Corporate Ct.
Waukesha, WI 53186

Program Chair:
Chester Isaacson
American Family Insurance Co.

*Program Agenda &
More Information
inside!*

**Approved for 6.0 CLE,
Including 1.0 EPR.
2.0 Additional EPR
Pending.**



WE'VE REBRANDED

A FRESH LOOK

We are excited to announce an update to our branding and logo, aimed at enhancing our overall appeal, consistency, and engagement with customers. This refresh aligns with our vision for the future. As valued partners, we want to share with you the reasons behind this update and how it will benefit both agents and our policyholders.



<p>UNIFORMITY</p> <p>By updating our logo and branding, we aim to achieve uniformity across all our communication channels and materials. This will create a more cohesive and consistent brand presence, making it easier for agents and policyholders to recognize and engage with our brand.</p>	<p>IMPROVED APPEAL</p> <p>We understand the importance of staying connected with our policyholders. The refreshed branding is designed to enhance our appeal to existing policyholders while also attracting new customers who are looking for a trusted and forward-thinking insurance provider.</p>	<p>MODERN STYLE</p> <p>Our new branding features a modernized look, text, and color palette that reflects our commitment to improved innovation and staying current with industry trends. These changes will help us stand out in a competitive market and appeal to a broader audience.</p>
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RELIABILITY

It's important to emphasize that while our branding is evolving, our core values and commitment to providing excellent service remain unchanged. The new look symbolizes our evolution and readiness to embrace the future while continuing to deliver the same high-quality products and support you have come to expect from us.

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*Grace Kulkoski Wisconsin Mutual Insurance Co.,
and Ariella Schreiber, Rural Mutual Insurance Co.*



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Schedule of Events

December 13th, 2024

8:15 - 8:55 AM

Registration & Continental Breakfast

8:55 - 9:00 AM

Opening Remarks

9:00 - 9:50 AM

Jury Trial Tips for the Ethical Trial Attorney

Honorable Ellen Brostrom, Retired Judge, Milwaukee County Circuit Court, and Mediator, Resolute Systems, LLC

9:50 - 10:00 AM

Break

Sponsored by Bell, Moore & Richter, S.C



10:00 - 10:50 AM

View from the Other Chair: A Lawsuit from the Insured's Perspective

Heather Nelson, Everson, Whitney, Everson & Brehm, S.C. and JoEllen Wilinski, Wilco Cabinet Makers, Inc.

10:50 - 11:40 AM

Give Peace a Chance: The Benefits of Being Civil with Opposing Counsel

Alex Kammer, Kammer and Haag, S.C., and Andrew Larson, American Family Insurance Co.

11:40 - 1:00 PM

Lunch

Sponsored by Don Engels, Ringler Associates in WI



1:00 PM - 1:50 PM

From Posts to Proof: Social Media Evidence - A Focus on Facebook, Instagram, and Snapchat

Spencer Orin and Vaidhy Swaminathan, Digital Intelligence

1:50 - 2:40 PM

Everyone's Got an Overlord: Why Insurers Expect Outside Counsel to Provide Excellent Customer Service - Part 1

Grace Kulkoski Wisconsin Mutual Insurance Co., and Ariella Schreiber, Rural Mutual Insurance Co.

2:40 PM - 2:50 PM

Break

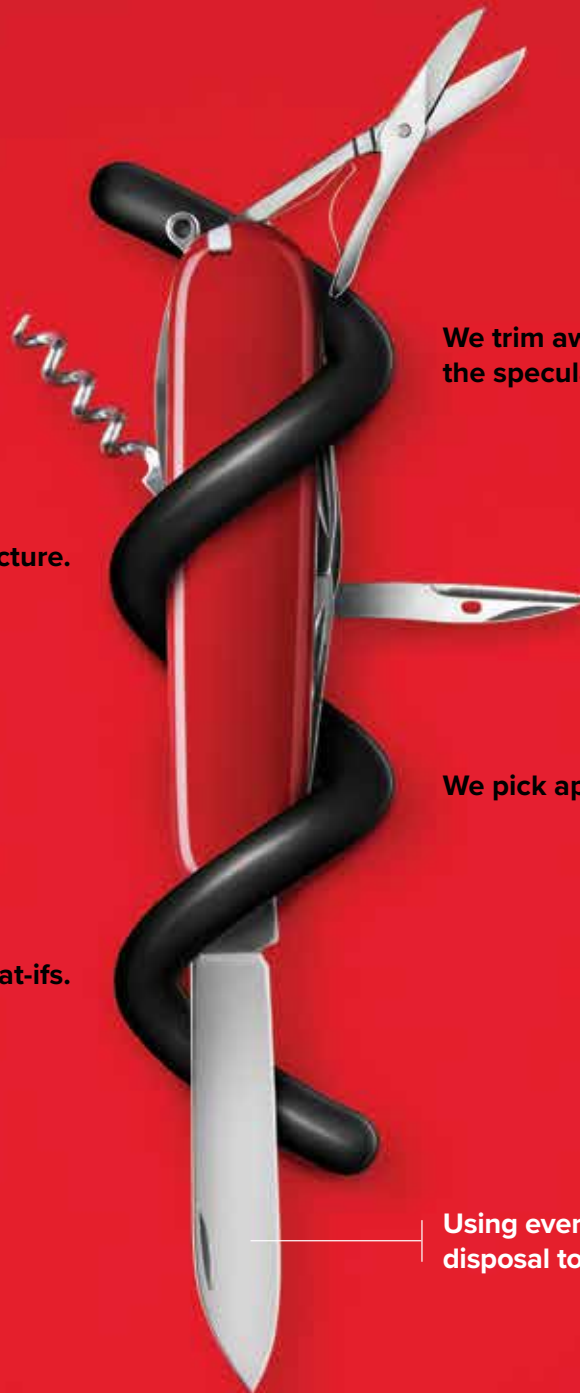
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2:50 PM - 3:40 PM

Everyone's Got an Overlord: Why Insurers Expect Outside Counsel to Provide Excellent Customer Service - Part 2

Grace Kulkoski Wisconsin Mutual Insurance Co., and Ariella Schreiber, Rural Mutual Insurance Co.



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Speaker Biographies

After a distinguished 15-year career sitting on the Milwaukee County Circuit Court, Judge **Ellen R. Brostrom** (ret.) stepped down from the bench in May of 2024 to pursue a full-time career providing mediation and arbitration services. While on the bench, Judge Brostrom presided over hundreds of jury trials.



Judge Brostrom practiced civil litigation for fifteen years before being elected to the bench, including toxic tort litigation, civil rights, employment discrimination, actuarial malpractice, and class actions. She has practiced in multiple jurisdictions, including California, Minnesota, Texas and Wisconsin, as well as their corresponding federal courts.

Alexander Kammer was born in Madison, WI in 1970. He was raised on a farm near the Marquette/Columbia county line. He graduated from Wayland Academy high school in 1988. He then attended the University of Wisconsin Madison and graduated in 1992 with a degree in history and a degree in political science. He went on to law school graduating in 1998 from Northern Illinois College of Law, cum laude.



Alex put himself through school working a wide variety of trades including construction, roofing, factory work, landscaping and restaurant work.

His entire career has concentrated exclusively in the area of plaintiff's personal injury law. He is listed in Best Lawyers of America, has been recognized as a Wisconsin Super Lawyer each year from 2006 to the present, is listed as one of the top 100 Trial Lawyers in Wisconsin by the American Association of Trial Lawyers, and most recently was included in the "Top 25: 2018 Madison Super Lawyers List." His practice focuses on serious personal injury matters including, brain injuries, complicated orthopedic injuries, wrongful death, and insurance bad faith.

Alex has successfully taken many cases to trial. He has obtained substantial settlements and verdicts on accident cases involving orthopedic, neurological and psychological injuries. His successful trial record includes cases involving trucking accidents, car accidents, motorcycle accidents as well as occupational and recreational accidents.

Alex has lectured and written on a variety of topics dealing with plaintiff's personal injury issues, focusing primarily on instructing how to effectively represent injured people. He is a member of the Wisconsin and Dane County Bar associations, the Wisconsin Association for Justice, the American Association for Justice, Public Justice and the National Crime Victim Bar Association. He is also a member of the Brain Injury Association of Wisconsin as well as the International Brain Injury Association.

Alex has handled literally hundreds of accident claims over the years involving people from every conceivable walk of life. He has obtained justice and compensation for accident victims stemming from virtually every imaginable sort of injury. These include physical injuries such as spinal fractures or brain injuries as well as economic injuries such as wrongful denials of insurance benefits or insurance claims.

He is driven in his work by the need to see people through the very difficult time that follows a serious accident. He recognizes that a serious injury represents an almost complete interruption of someone's life. His professional life has been dedicated to getting people through this hardship, back on to their feet and on with their lives.

Likely as a result of growing up in the country, Alex is an outdoor enthusiast and an avid gardener. He enjoys fishing, canoe camping, travel and outdoor photography.

Alexander Kammer is married and has two children, a son and a daughter. He and his family live in Middleton, WI.



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Speaker Biographies *continued*

Grace Kulkoski works as in-house counsel for Wisconsin Mutual Insurance Company. She currently serves as the President-elect for WDC, as well as the vice-chair for the Wellness Committee and the In-House Counsel Committee. In her spare time, Grace enjoys running marathons, and talking about running- just ask her.



Andrew Larson is a Senior Trial Attorney at American Family Mutual Insurance Company. Prior to joining American Family, Andrew was a trial attorney with Farmers Insurance. Andrew also had a three-year stint of working on the other side of the “v” as a plaintiff’s personal injury litigator. Through the course of his career, he has had the opportunity to litigate cases in almost every county in Wisconsin.



Heather Nelson is President and Shareholder of Everson, Whitney, Everson & Brehm, S.C., in Green Bay. She currently serves as WDC President, having served on the Board of Directors and Executive Committee as well. Heather is an experienced trial attorney, having successfully tried cases before juries in state and federal courts throughout Wisconsin and Illinois. She obtained her J.D. from DePaul University College of Law in Chicago and launched her legal career in the Chicago area. Heather became licensed to practice law in Wisconsin in 2000, defending cases in both Illinois and Wisconsin. Joining The Everson Law Firm in 2016 brought Heather back home to her Green Bay roots. Her practice areas include motor vehicle accident, premises liability, wrongful death and insurance coverage. Heather has been active in presenting CLE topics at WDC conferences, for the State Bar of Wisconsin, and at the North Central Region Trial Academy.



As Director of eDiscovery Services, **Spencer K. Orin** provides guidance to clients in all phases of the electronic discovery reference model (EDRM), project planning, budgeting, and eDiscovery technology. Spencer is a certified expert on software platforms such as Nuix and Relativity. He is often engaged to consult on the employment of early case assessment strategies, analytics, and predictive coding technology to create more efficient, streamlined document reviews. He has conducted dozens of data collections in large, highly sensitive matters, and frequently assists clients with data mapping and preservation strategies. Spencer manages DI’s largest, most complicated cases, often involving terabytes of data. Spencer is responsible for the oversight of eDiscovery operations, including the implementation and utilization of efficient and innovative solutions throughout preservation, collection, processing, hosted review, and production of electronically stored information (ESI). Spencer is a graduate of the University of Wisconsin-Madison, with a B.S. in Legal Studies, is a Certified eDiscovery Specialist (CEDS), and is a Relativity Certified Administrator (RCA).



Ariella Schreiber joined Rural Mutual Insurance Company in August of 2011 as a Senior Claims Attorney and later served as Director of Casualty Claims and Director of Claims. She became Vice President of Claims and General Counsel in January 2018. In her current role, she oversees the Rural Mutual Claims Department and advises the company on legal matters. She also works directly with the agents on E&O education and consults on E&O claims asserted against the agents, along with the E&O carrier.



Prior to joining Rural, Ariella was an attorney in private practice. She specialized in insurance coverage, bad faith, agent E&O, and some personal injury defense. Ariella practiced in both state and

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Speaker Biographies *continued*

federal court and had the opportunity to try over 10 cases. She also handled numerous motions and appeals.

Ariella earned her BS in Engineering at Rutgers University in 2002, her JD from Seton Hall University School of Law in 2005, and her MBA from the University of Wisconsin – Madison in 2017. She is a former President of the Wisconsin Defense Counsel and is on the Board of Directors for Wisconsin Lawyers Mutual Insurance Company.

As a Senior Forensic Examiner, **Vaidhyathan (Vaidhy) Swaminathan** works directly with the team's project managers, attorneys, and clients in all phases of the electronic discovery reference model (EDRM). His area of expertise includes data collection, complex analytics, forensic examination, processing, and data analysis. He has extensive experience with a variety of forensic and legal software platforms, including FTK, Cellebrite, Magnet AXIOM, EnCase, and ReadySuite. Vaidhy regularly investigates computers, tablets, mobile phones, and other sources of electronically stored information (ESI). Vaidhy earned his bachelor's degree in Electronics and Instrumentation Engineering from Madras Institute of Technology, followed by his master's degree in Cyber Security Engineering from the University of Southern California.



JoEllen Wilinski (or more commonly, Joey) is a 1985 graduate from the University of WI – River Falls with a Biology major and Chemistry minor. In 1987 she married her husband Paul and joined his family custom cabinetry business and is currently the Vice President of Sales/Design/HR at Wilco Cabinet Makers, Inc. in Green Bay, WI. She is a Certified Kitchen Designer (CKD) and also a Wisconsin Registered Interior Designer (WRID). Joey has been published in the Green Bay Press Gazette and Builder Architect magazine, and has won awards for her designs from the National Kitchen and Bath Association. Besides running the family business, Joey is active in the community thru the Service League of Green Bay and the Back to School Store which gets 3,000 impoverished Kindergarten thru 5th graders ready the school year with schools supplies and a brand new first day of school outfit including jeans, shirt, socks, underwear and new name brand tennis shoes. She serves on the UW-River Falls Alumni Board, the Fox Valley Technical College Interior Design Advisory Board and is the class advisor for the FVTC Kitchen and Bath Design courses.



Joey lives on a horse farm with her husband in Maribel Wisconsin and enjoys travel, wine, music and a really good fire in the fire pit.



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Jury Trial Tips for the Ethical Trial Attorney

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View from the Other Chair: A Lawsuit from the Insured's Perspective

Heather L. Nelson, The Everson Law Firm, Green Bay

JoEllen "Joey" Wilinski, Wilco Cabinet Makers, Inc., Green Bay

- I. Introduction and Case Background, *Duening v Wilco Cabinet Makers* (see case summary, attached)
- II. After the incident
 - a. Reporting to insurance company
 - b. Documentation
- III. Prior to suit being filed
 - a. Working with the insurance company
 - b. Communications from Plaintiff's Counsel
- IV. Service of Lawsuit
 - a. Internal protocols/process
 - b. Staff/employee notification
- V. Introduction to Assigned Defense Counsel
- VI. Discovery Process
 - a. Written discovery responses, document requests
 - b. Depositions
 - i. Corporate representative
 - ii. Employees
 - iii. Preparation
- VII. Trial Process
 - a. Preparation
 - i. Corporate representative
 - ii. Employees
 - b. Trial Attendance
 - i. Corporate representative testimony
 - ii. Employee testimony
 - iii. Reaction to plaintiff attorney's approach and tactics
 - iv. Reaction to defense attorney's approach and tactics
 - v. Closing argument
 - vi. Deliberations and Verdict
- VIII. Biggest concerns, biggest questions throughout

B

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Agnes Duening, et al. v. Wilco Cabinet Makers, Inc., et al.

Brown County Case No. 22-CV-1516

Trial Dates: May 6-9, 2024

Facts: On January 9, 2020, 55-year-old Agnes Duening walked from the parking lot, across the sidewalk and into the defendant's showroom to pick out cabinets for a bathroom remodel project. Earlier that day it had rained and/or misted off and on and the sidewalk was wet with no observable ice upon entry. When she came out less than an hour later to get her phone out of her car, she slipped and fell, fracturing her left distal femur (open/comminuted). She had already had a total knee replacement surgery on the left knee seven months prior but had returned to work without restrictions (infusion/cancer nurse) approximately five months before her fall. Ultimately there was no testimony suggesting the prior total knee replacement had a role in her fall nor was there testimony that it was adversely affected by the femur fracture.

Plaintiff underwent an ORIF the day of the fall but ultimately—after much physical therapy in Wisconsin and in Arizona—developed a nonunion requiring two more surgeries approximately two years and two months later—one to remove the old hardware and check for infection (none) and one to insert a titanium rod and screws into the femur.

Plaintiff was an infusion nurse whose husband, a consortium plaintiff, had just the day before her fall announced his intention to retire. They already had a winter/vacation home in Arizona. She testified she had intended to increase her 27 hours a week schedule to 40 after her husband retired and to stay in nursing another 10 years as it was her passion. The Duenings moved full-time to their Arizona home in September 2020 to avoid future ice encounters, especially given her long recovery and ongoing claim that she tires easily, cannot walk/shop more than an hour without fatiguing, and has to take stairs one by one.

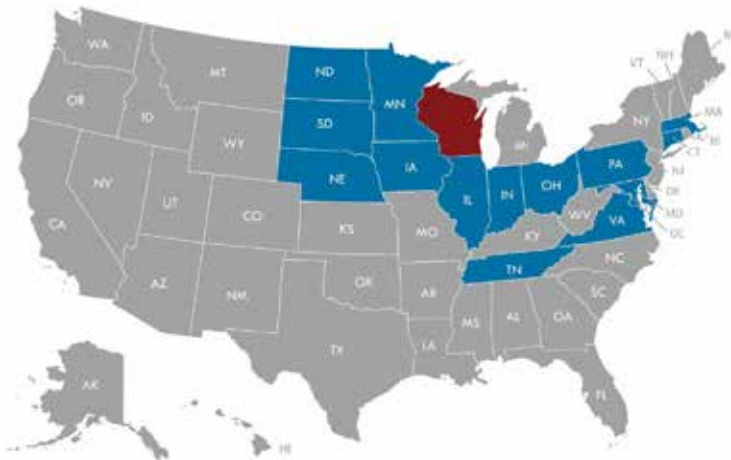
Plaintiff's treating surgeon did not place any restrictions on her. Plaintiff underwent a functional capacity evaluation (FCE) with a physical therapist in Arizona who deemed her totally disabled from all work. The defense had an independent medical examination performed by Dr. Thomas Viehe, MD due to suggestions during discovery that her treating surgeon told her she needed a new knee replacement as a result of this fall (ultimately her surgeon did not offer this opinion). Dr. Viehe offered some restrictions which took her out of her prior job but left her employable in the health care field, including many remote options (plaintiff claimed she could not sit more than 15 minutes at a time and got up often during trial to stand).

Plaintiff's vocational expert Bruce Schuyler calculated her past wage loss as \$326,820 and her future loss of earning capacity as \$364,530. Defense vocational expert Dr. Leanne Panizich calculated past wage loss of \$190,965.60 and future loss of earning capacity in the range of \$60,596.64 to \$69,722.64 (differential between her prior job as an infusion nurse and the remote positions available to her for 9.5 years of work life expectancy). There was an argument that any ongoing or future physical complaints were unrelated to the subject fall.



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Issues for Trial: Defendant denied liability under the Safe Place Act and argued no actual or constructive notice of the apparent slippery patch on which plaintiff fell. Defendant had an employee who checked all entrances at specific intervals and who did not slip during pre-fall walkarounds that day but threw salt on his three prior walkarounds of the area in case freezing occurred. Plaintiff's interior designer (who accompanied her to the store that day) and defendant's salesman, both of whom assisted her after her fall, did not see ice nor did they slip while assisting her. Plaintiff testified that one of them was slipping and the responding emergency personnel were slipping (interior designer and salesman both denied all of this).

Prior to trial, the parties stipulated to \$281,240.63 in past medical expenses.

At Trial: During closing arguments, plaintiff asked the jury to award the \$281,240.63 in past medical expenses that were stipulated to, \$326,820 for lost wages, \$364,530 for future loss of earning capacity, \$1.5 million for past pain, suffering, and disability, and \$500,000 for future pain, suffering, and disability. In contrast, the defense suggested \$190,965.60 for lost wages, \$0 to \$69,722.64 for future loss of earning capacity, \$0 for future medical expenses, \$100,000 to \$200,000 for past pain, suffering, and disability, and a "lesser amount" for future pain, suffering, and disability.

The jury found neither side negligent and awarded \$281,240.63 for past medical expenses, \$220,000 for lost wages, \$29,000 for future loss of earning capacity, \$7,000.00 for future medical expenses, \$180,000 for past pain, suffering, and disability, and \$50,000 for future pain, suffering, and disability (for total damages of \$767,240.63).

In addition, the jury awarded \$10,000 to plaintiff's husband on his loss of consortium claim (during closing arguments, plaintiff requested \$50,000 and the defense suggested \$0 to \$5,000).

Plaintiff's Final Pre-Trial Demand: Plaintiff: \$650,000; Plaintiff's husband: \$24,999

Defendant's Final Pre-Trial Offer: \$300,000

Verdict: \$0

For more information, contact Heather L. Nelson at hnelson@eversonlaw.com.



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<p>VIEW FROM THE OTHER CHAIR: A LAWSUIT FROM THE INSURED'S PERSPECTIVE</p> <p>Heather Nelson, The Everson Law Firm JoEllen "Joey" Wilinski, Wilco Cabinet Makers, Inc.</p>	

1



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<p>AFTER THE INCIDENT</p> <p>"Incorrect documentation is often worse than no documentation." ~ Bertrand Meyer</p>	

3

	<p>PRIOR TO SUIT BEING FILED</p>	

4

	<p>Service of Lawsuit</p>

5

	<p>Introduction to Assigned Defense Counsel</p>

6

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Discovery Process	

7

	<h2 style="text-align: center;">TRIAL PROCESS</h2> <p style="text-align: center;">"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." ~ Amendment 7, U.S. Constitution</p>
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8

BIGGEST CONCERNS, BIGGEST QUESTIONS: CLIENT'S PERSPECTIVE	

9

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10

MANDATORY AUDIENCE PARTICIPATION	
	<p>What are your burning questions?</p>

11

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William D. Bolte



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Bell, Moore & Richter, S.C. has been involved in insurance defense litigation for most of its existence. Due to the firm's extensive experience with all aspects of insurance litigation, we are often called on to defend insurance companies and their insureds in the courtroom and in appeals, both in state and federal court. Our attorneys pride themselves on keeping up to date on the latest changes in insurance law and can help clients untangle the constant legislative and case law changes in insurance. For decades, our attorneys have also successfully defended medical professionals practicing in a broad range of specialties and a wide variety of claims. We know how to build a strong defense to workers' compensation claims and disputes and help employers on all issues which may arise. Our experience has led to successful results in defending claims both in State and Federal courts as well as before the State Medical Examining Board and Medical Mediation Panel. In the defense of business litigation, we bring the experience and judgment of seasoned practitioners from both business and transactional attorneys, on the one hand, and proven civil litigation practitioners on the other. We also have considerable experience helping to defend insurance agents as well as real estate agents and brokers in litigation. Let us help you.

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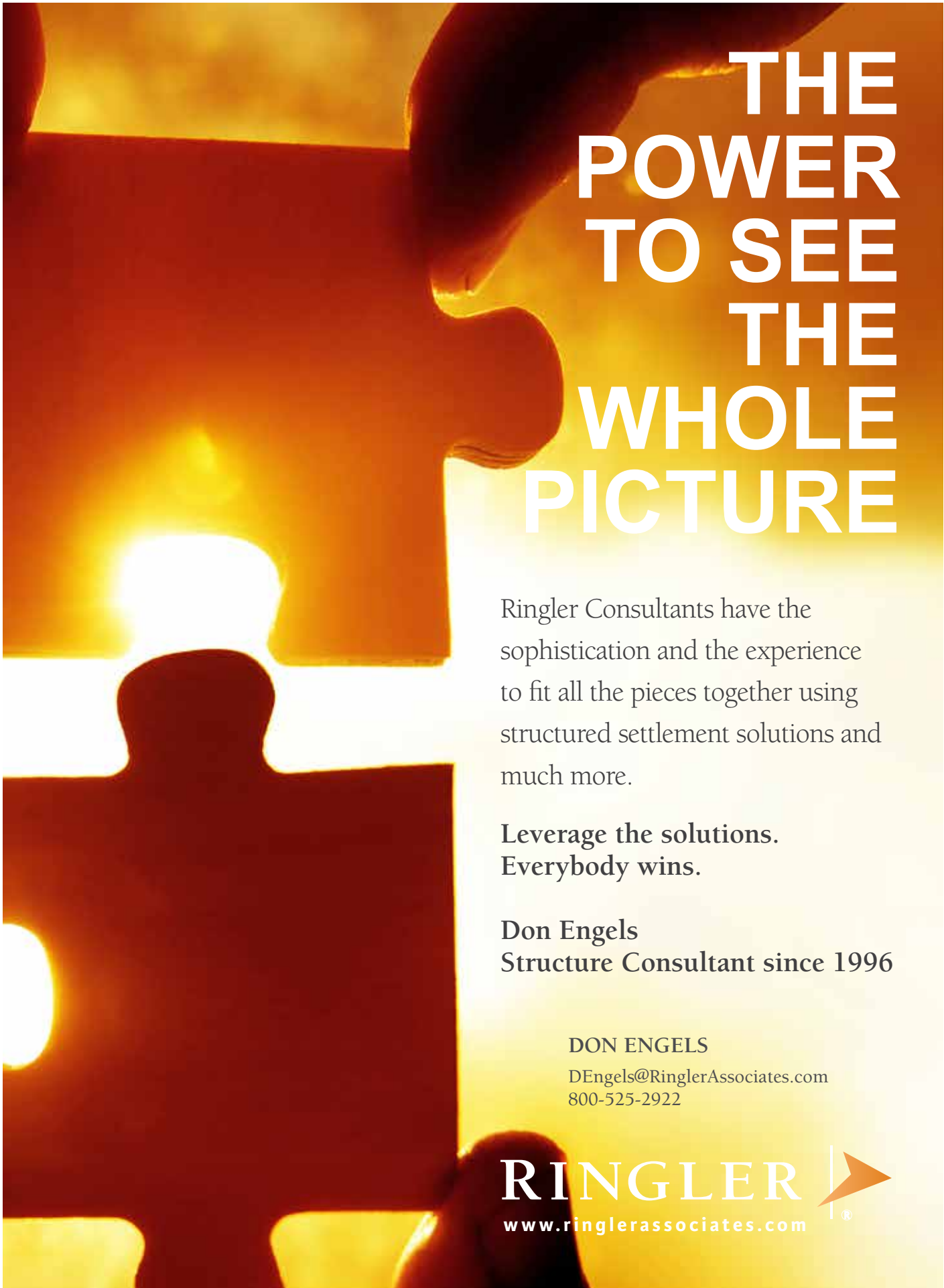


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