Complex Medicine

✓ Apply complex medical concepts successfully in the courtroom
✓ Defend cases using latest trends in medicine and technology
✓ Acquire strategies for expert cross-exam

November 13–14, 2014
The Westin San Diego
San Diego, California
DRI’s 2014 Complex Medicine Seminar will bring you up-to-date on emerging topics and trends in cases involving complex medical issues and injuries. This year’s program includes topics of interest for claims professionals, in-house counsel, defense attorneys, and risk management personnel. Attorneys and medical experts from across the country will address timely and complex medical topics, including chronic pain allegations, traumatic brain injury, fetal death, unconscious pain and suffering, and more. Attendees will learn advanced strategies to prepare for Frye and Daubert challenges, get innovative tools to defend catastrophic injury cases, gain tips on defending growing emotional distress claims under the new DSM-V, and hear how to rebut life care plans in the age of the Affordable Health Care Act. This top-notch program will be accompanied by networking opportunities as well.

Colette R. Magnetta
Program Co-Chair

Jackie H. Trimm
Program Co-Chair

Todd W. Smyth
Chair, Medical Liability and Health Care Law Committee

John C.S. Pierce
Chair, Trial Tactics Committee

Stephen O. Plunkett
Law Institute

WHAT YOU WILL LEARN
- Trends and cutting-edge medical topics that affect litigation
- Innovative strategies for defending complex and catastrophic cases
- Effective cross-examination of the life care planner
- Tips for using technology to present complex medical issues to a jury
- Pointers for using Daubert and Frye effectively to strike unqualified expert opinion

PRESENTED BY DRI’s Medical Liability and Health Care Law and Trial Tactics Committees
**PROGRAM SCHEDULE**

**WEDNESDAY, NOVEMBER 12, 2014**

**6:00 p.m.**  Registration

**6:00 p.m.**  Networking Reception

**THURSDAY, NOVEMBER 13, 2014**

**7:00 a.m.**  Registration

**7:00 a.m.**  Continental Breakfast

**8:00 a.m.**  Welcome and Introduction  
Stephen O. Plunkett, Bassford Remele PA,  
Minneapolis, Minnesota  
Todd W. Smyth, Smyth Whitley LLC,  
Charleston, South Carolina  
John C. S. Pierce, Butler Pappas Weihmuller Katz Craig LLP, Mobile, Alabama

**8:10 a.m.**  Life Care Plans and the Affordable Care Act: Restoring Balance Between Adequate Compensation and Rational Jury Verdicts  
When skillfully utilized, the Affordable Care Act’s provisions significantly affect the plaintiff’s ability to recover money damages for an injured claimant’s future medical care costs. Mr. Valitutti will discuss strategies for deposing the life care planner to expose the weaknesses of the field, and using that testimony to prove the relevancy and positive effect of the Affordable Care Act and the Special Needs Trust.  
Ralph F. Valitutti, Jr., Kitch Drutchas Wagner Valitutti & Sherbrook PC, Mt. Clemens, Michigan

**9:05 a.m.**  Genetics in Defending Catastrophic Injury Cases: A Primer  
Advances in genetic research are being used to provide answers like never before. A person’s propensity for disease or disability, as well as the ability to pass on those traits to others, may be identified through genetic testing. But how much can unlocking the human DNA tell us? Can genetic abnormality explain an otherwise confounding diagnosis? This presentation looks at the basics of clinical genetic testing, what it can and cannot tell us, and how it can be used to identify causative explanations in the courtroom.  
Tracy L. McGregor, M.D., Vanderbilt University School of Medicine, Nashville, Tennessee

**10:00 a.m.**  Refreshment Break

**10:15 a.m.**  A Pediatric Perspective  
This session examines the challenges presented by an injured pediatric patient. How reliable is a child’s communication of his or her own pain? How accurate is a parent’s assessment of a child’s limitations? And how does the physician find the most accurate medical picture and expected outcome when the patient’s own ability to convey helpful information is not optimal? Dr. Davis examines the unique issues associated with caring for an injured child and the medical practices designed to obtain the most accurate picture.  
Drew Davis, M.D., Children’s of Alabama, Birmingham, Alabama

**11:10 a.m.**  Fetal Death Cases  
The status of these cases is changing around the country as more states allow civil wrong-ful death suits based on fetal death. Mr. Sellers discusses fetal viability issues, the fetus as a plaintiff, the effect on injury claims of the mother, and other important considerations in these unique cases.  
Randal H. Sellers, Starnes Davis and Florie LLP, Birmingham, Alabama

**12:00 p.m.**  Lunch (on your own)

**1:20 p.m.**  Defending Against Aggressive Pain Management Doctors and Chronic Pain Claims  
Dr. Wallace will explore tactics to defend cases where the claim is chronic pain. Issues will include the effect of the patient’s previous drug use, the role of pain clinics, and strategies to reduce damages in chronic pain cases.  
Mark S. Wallace, M.D., UC San Diego Health System, La Jolla, California
2:15 p.m. **Gatekeeper or Grim Reaper: Frye and Daubert Challenges—Motion Strategy and Medical Expert Testimony**

SCOTUS penned the Daubert decision over two decades ago. Listen to a discussion of Frye, Daubert, and its progeny; learn advanced and varied approaches to Frye and Daubert challenges; acquire strategies for challenging plaintiffs’ experts; and prepare for the plaintiffs’ bar’s increased use of Frye and Daubert attacks against defense experts.

Bonnie J. Beavan, Goodell DeVries Leech & Dann LLP, Baltimore, Maryland

Loren H. Brown, DLA Piper LLP, New York, New York

Erik Snapp, Dechert LLP, Chicago, Illinois

2:55 p.m. **Refreshment Break**

Sponsored by Wiggin and Dana LLP

3:10 p.m. **Gatekeeper or Grim Reaper: Frye and Daubert Challenges—Motion Strategy and Medical Expert Testimony**

(Cont.)

4:00 p.m. **Emotional Injury Claims and Significant Changes in DSM–5**

Catastrophic injury claims are often accompanied by claims of severe emotional distress and injury. With recent changes in the DSM–5 classification of trauma- and stressor-related disorders, we can expect an increase in such claims. Learn how to dissect these claims and attack both improper methods and the bases of unfounded psychological and psychiatric diagnoses.

Park Dietz, M.D., Ph.D., MPH, Park Dietz & Associates Inc., Newport Beach, California

5:00 p.m. **Medical Liability and Health Care Law Committee Meeting** (open to all)

5:00 p.m. **Trial Tactics Committee Meeting** (open to all)

6:00 p.m. **Networking Reception**

7:30 p.m. **Dine-Arounds** | Join colleagues and friends at selected restaurants for dinner (on your own). More details on-site.

FRIDAY, NOVEMBER 14, 2014

7:00 a.m. **Registration**

7:00 a.m. **Continental Breakfast**

8:00 a.m. **Announcements**

Colette R. Magnetta, Acker & Whipple APC, Los Angeles, California

Jackie H. Trimm, Baptist Health System Inc., Birmingham, Alabama

8:05 a.m. **Use of an Economist, Annuitist, or Life Expectancy Expert as a Settlement Tool**

With the vast majority of cases never reaching the courtroom, Ms. Darty explores the use of these potential experts as a method for bringing the plaintiff’s life care plan into a workable settlement range and the benefits that they can bring to the table as seen from both the defense and plaintiff’s perspectives.

Lynn S. Darty, Christian & Small LLP, Birmingham, Alabama

9:00 a.m. **Global Approach to Traumatic Brain Injury (TBI) Cases: Integrating Medicine and Strategy**

This presentation will help you understand the medicine unique to TBI claims, the range of diagnoses, the imaging used, the neuropsychological aspect, prognoses, and how to educate the jury. Learn how to integrate the medicine with trial strategies to diffuse these claims’ sympathetic nature, reducing their magnitude. Mr. Gass will also present new thinking for changing settlement psychology to reach a reasonable resolution.

J. Ric Gass, Gass Weber Mullins LLC, Milwaukee, Wisconsin

10:00 a.m. **Refreshment Break**

10:15 a.m. **Anatomy of the Spine for Lawyers: Risks and Limitations of Back Surgery**

More than half a million Americans have back surgery each year. For some, the procedure is perceived as unsuccessful, leaving the patient in more pain or addicted to medication. Professor Hodge will examine the most common
types of back surgery, taking the audience into the operating room to witness the procedures first-hand. He will explore the reasons things go wrong and why surgery does not always produce a cure, and offer tips for defending the failed surgical case.

Samuel D. Hodge, Jr., Temple University, Philadelphia, Pennsylvania

11:00 a.m. Evaluating Unconscious Pain and Suffering
Catastrophic injuries can inflict grievous harm short of immediate death, and medical advances allow patients to survive longer than ever before. Increasingly, plaintiffs’ counsel are pressing claims for pain and suffering awards on behalf of unconscious patients. Mr. Holmstrand will discuss the medical and legal issues related to claims of unconscious pain and suffering, and suggest strategies for defending those claims.

Jeffrey A. Holmstrand, Flaherty Sensabaugh Bonasso PLLC, Wheeling, West Virginia

11:50 a.m. Illustrating Medicine for the Jury
Complex medical issues are some of the toughest to describe, clarify, and understand. Learn what new technology is available for introducing these complicated concepts to your jury. Find out how to defeat a plaintiff’s expert video simulation and what arguments can help you convince the judge to exclude a plaintiff’s demonstrative evidence.

Timothy Croke, Advanced Practice Strategies Inc., Boston, Massachusetts
Mary K. Peyton, Blue Williams LLP, Metairie, Louisiana

12:35 p.m. When Is Three a Crowd? Ethical Issues Raised by the Joint Defense of an Entity and Its Employee
This interactive program will use scenarios from actual court rulings to address a variety of questions. What ethical steps must be taken before you represent both entity and individual? Is in-house counsel liable for breach of duty to an employee-client if counsel takes steps to protect the entity’s interests at the expense of the employee? Under what circumstances may the attorney withhold one joint client’s privileged information from the other?

Daniel E. Eaton, Seltzer Caplan McMahon Vitek, San Diego, California

1:35 p.m. Adjourn

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**FACULTY**

**Bonnie J. Beavan** is a partner with Goodell DeVries Leech & Dann LLP in Baltimore. Ms. Beavan focuses on the defense of pharmaceutical, medical device, and professional malpractice claims in local, federal, and multidistrict litigations. She has taught at the International Association of Defense Counsel Trial Academy and has been a guest lecturer before epidemiologists and biostatisticians regarding Daubert and the use of epidemiology in court.

**Loren H. Brown**, a member of DLA Piper LLP’s Executive Committee in New York City, is co-chair of the firm’s Product Liability and Mass Tort Practice. He has an extensive civil litigation practice with a concentration in pharmaceutical and mass tort areas. He has served as national coordinating counsel, tried jury cases, and argued appeals on behalf of many Fortune 50 companies, and currently acts as national coordinating and lead trial counsel in mass tort and multidistrict litigation.

**Timothy Croke** is the co-founder and vice president of Advanced Practice Strategies Inc.’s Demonstrative Evidence Group in Boston. He has been involved in over 6,000 cases concerning complex medical issues, giving him a unique perspective. Innovation, such as the use of custom 3D anatomical printing, strengthens every case. Mr. Croke has spoken on the usefulness of demonstrative evidence for such insurers as Medical Protective, Coverys, ProAssurance, Princeton, Sedgwick, and One Beacon, as well as numerous law firms.

**Lynn S. Darty** is of counsel at Christian & Small LLP in Birmingham, Alabama. She concentrates her practice on matters involving complex legal issues facing product liability, health care, insurance, and pharmaceutical clients. Ms. Darty’s varied litigation practice also includes a focus on defending clients in state and nationwide class actions and matters involving fiduciary responsibility matters.

**Drew Davis, M.D.**, is the medical director for the Division of Pediatric Rehabilitation Medicine at Children’s of Alabama in Birmingham, Alabama. Dr. Davis is an associate professor in the Department of Pediatrics and the Department of Physical Medicine and Rehabilitation at the University of Alabama in Birmingham. He is board certified in physical medicine and rehabilitation and pediatric rehabilitation medicine. His special interests include management of patients with traumatic brain injury, spinal cord injury, spasticity, neuroplasticity, and assistive technology.

**Park Dietz, M.D., MPH, Ph.D.**, is president of Park Dietz & Associates Inc., a forensic consulting firm in Newport Beach, California, and a clinical professor of psychiatry and biobehavioral sciences at the UCLA David Geffen School of Medicine. Dr. Dietz is a past president of the American Academy of Psychiatry and the Law, a distinguished life fellow of the American Psychiatric Association, and a fellow of the American Academy of Forensic Sciences. He has testified or consulted in all 50 states.

**Daniel E. Eaton** is a partner in the litigation department of Seltzer Caplan McMahon Vitek in San Diego. His practice focuses on defending and advising employers. He is a member and former chair of the San Diego County Bar Legal Ethics Committee; for 10 years, he edited Ethics Quarterly, a publication abstracting California state and federal legal ethics cases. Mr. Eaton has provided commentary on legal and ethical issues to San Diego TV stations and the national media.

**J. Ric Gass**, a senior shareholder in the Milwaukee law firm of Gass Weber Mullins LLC, has tried over 300 jury trials nationwide. He specializes in catastrophic damages cases arising in general liability, product liability, premises security, medical negligence, municipal liability, and invasion of privacy in Internet searching. He is a member of DRI, the FDCC, and the IADC, and a fellow in the American College of Trial Lawyers, the Litigation Counsel of America, and the International Society of Barristers.

**Samuel D. Hodge, Jr.**, a skilled litigator, is a professor at Temple University in Philadelphia, where he teaches law and anatomy. Professor Hodge has published more than 150 articles on medical/legal topics and has authored four medical texts for lawyers. He is a national lecturer on anatomy and is considered one of the most popular CLE speakers in the country.

**Jeffrey A. Holmstrand**, senior counsel with the Wheeling, West Virginia, office of Flaherty Sensabaugh Bonasso PLLC, focuses his statewide practice on defending product liability, mass torts/class actions, and complex insurance disputes. He serves on the steering committee of DRI’s Product Liability Committee, is past chair of its Mass Torts/Class Action SLG, and is a member of DRI’s Law Institute.

**Colette R. Magnetta** is a shareholder at Acker & Whipple APC in Los Angeles. Her general tort defense litigation practice
includes construction workplace accidents, premises liability, product liability, and transportation claims. An active member of DRI’s Trial Tactics Committee, Ms. Magnetta is the program co-chair of this seminar.

**Tracy L. McGregor, M.D.** is an assistant professor of pediatrics in the Division of Genetic and Genomic Medicine at Vanderbilt University School of Medicine in Nashville and is affiliated with the Monroe Carell Jr. Children’s Hospital at Vanderbilt University. She is an active member of the American Society of Human Genetics and American College of Medical Genetics. Dr. McGregor is board certified by the American Board of Pediatrics and American Board of Medical Genetics. Her research focuses on pharmacogenetic applications in children.

**Mary K. Peyton** is a partner with Blue Williams LLP in Metairie, Louisiana, where she has practiced for over 15 years. In addition to chairing the firm’s Diversity Committee, she represents clients in pre-suit panels, contract negotiations, trial litigation, state board complaints, and appellate proceedings. In her professional liability practice, she represents a range of health care personnel. She also litigates complex medical malpractice, commercial, and general casualty cases. Ms. Peyton is an active DRI member.

**John C. S. Pierce**, a partner with Butler Pappas Weihmuller Katz Craig LLP in its Mobile, Alabama, office, focuses on litigation and appeals in construction, transportation, professional liability, product liability, business disputes, and insurance matters. He is admitted to practice in Alabama state and federal courts, the Northern District of Florida, the Eleventh Circuit Court of Appeals, and the United States Supreme Court. Mr. Pierce is the chair of DRI’s Trial Tactics Committee.

**Stephen O. Plunkett**, a shareholder with Bassford Remele PA in Minneapolis, represents nursing home and assisted living facilities in the Midwest. He also defends sexual misconduct claims for those facilities and religious and youth organizations. He is a member of DRI’s Law Institute and a former chair of DRI’s Medical Liability and Health Care Law Committee. Mr. Plunkett is admitted to practice in Minnesota and Wisconsin. He has been recognized by his peers as a “Top 100 Lawyer” in Minnesota Law & Politics.

**Randall H. Sellers** is a partner with Starnes Davis and Florie LLP in Birmingham, Alabama. His civil litigation practice includes health care, professional liability, securities, and intellectual property matters. He has tried over 180 complex civil cases to jury verdict. Mr. Sellers has been listed in Best Lawyers in America (2001–2013); in Chambers USA as a Top Litigator (2008–2014); and in Benchmark Litigation as a Litigation Star for Alabama (2008–2013).

**Todd W. Smyth**, a founding partner of Smyth Whitley LLC in Charleston, South Carolina, focuses on the defense of the health care industry. He represents physicians, drug and medical device manufacturers, pharmacies, nursing homes, and assisted living facilities. Mr. Smyth is the chair of DRI’s Medical Liability and Health Care Law Committee. He has been honored as a South Carolina Super Lawyer and named in Best Lawyers in America for medical malpractice law.

**Erik Snapp** is a partner in the Chicago office of Dechert LLP. He represents clients in the defense of pharmaceutical, medical device, and consumer products in consumer fraud class actions, product liability, and mass tort litigation. Mr. Snapp has represented Fortune 500 clients in numerous trials and has extensive multidistrict litigation experience. He has handled regulatory and internal investigations in the United States and Europe, and has advised clients on marketing and promotion issues.

**Jackie H. Trimm** is in-house counsel at Baptist Health Systems Inc. in Birmingham, Alabama. Previously, she was a member of a large Alabama litigation firm, practicing primarily medical liability defense. She has been well recognized for her professional work in the area of litigation, as well as her community involvement. Ms. Trimm is a past program chair for DRI’s Medical Liability and Health Care Law Seminar, and currently serves as co-chair of this seminar.

**Ralph F. Valitutti, Jr.**, a principal with Kitch Drutchas Wagner Valitutti & Sherbrook in Detroit and Mt. Clemens, Michigan. He is a medical malpractice lawyer who has defended hospitals in Michigan and many other states for more than 34 years. His focus is birth trauma defense. Mr. Valitutti has brought over 68 cases to jury verdict, obtaining defense verdicts in 62 of his jury trials. In 2007, he was recognized as one of AIG’s top 10 defense lawyers.

**Mark S. Wallace, M.D.**, is the chair of the Division of Pain Medicine, Department of Anesthesiology at UC San Diego Health System in La Jolla, California. Board certified in anesthesiology and pain medicine, Dr. Wallace is the director of the Division of Clinical Research in the UC San Diego Clinical and Translational Research Institute, chair of the UC San Diego Human Subjects Committee, and associate editor for the Clinical Journal of Pain. He is involved in ongoing clinical trials for pain management.
GENERAL INFORMATION

CLE/CLAIMS ADJUSTERS ACCREDITATION

This seminar has been approved for MCLE credit by the State Bar of California in the amount of 12.25 hours, including 1 hour of ethics credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. Application has been made for continuing education for claims adjusters. Credit availability and requirements vary from state to state; please check the DRI website at dri.org for the latest information for your state.

REGISTRATION

The registration fee is $755 for members and those who join DRI when registering and $985 for nonmembers. The registration fee includes course materials, continental breakfasts, refreshment breaks, networking receptions, and access to the DRI app. If you wish to have your name appear on the registration list distributed at the conference and receive the course materials in advance, DRI must receive your registration by October 24, 2014 (please allow 10 days for processing). Registrations received after October 24, 2014, will be processed on-site.

REFUND POLICY

The registration fee is fully refundable for cancellations received on or before October 24, 2014. Cancellations received after October 24 and on or before October 31, 2014, will receive a refund, less a $100 processing fee. Cancellations made after October 31 will not receive a refund, but the course materials on CD-ROM and a $100 certificate good for any DRI seminar within the next 12 months will be issued. All cancellations and requests for refunds must be made in writing. Fax (312.795.0747) or email (seminars@dri.org) to DRI’s Accounting Department. Processing of refunds will occur within four weeks after the date of the seminar. All refunds will be processed in the same method that the payment was received. Substitutions may be made at any time without charge and must be submitted in writing.

HOTEL ACCOMMODATIONS

A limited number of discounted hotel rooms have been made available at the Westin San Diego, 400 West Broadway, San Diego, California 92101. For reservations, visit dri.org and go to the Complex Medicine Seminar page or contact the hotel directly at 619.239.4500. Please mention DRI’s Complex Medicine Seminar to take advantage of the group rate of $239 Single/Double. The hotel block is limited and rooms and rates are available on a first-come, first-served basis. You must make reservations by October 14, 2014, to be eligible for the group rate. Requests for reservations made after October 14 are subject to room and rate availability.

SPECIAL DISCOUNTS

Group Discount

The first and second registrations from the same firm or company are subject to the fees outlined previously. The registration fee for additional registrants from the same firm or company is $695, regardless of membership status. All registrations must be received at the same time to receive the discount.

In-House Counsel

In-house counsel are eligible for free registration to DRI seminars. In-house counsel are defined as licensed attorneys, who are employed exclusively by a corporation or other private sector organization for the purpose of providing legal representation and counsel only to that corporation, its affiliates and subsidiaries. In order to qualify for free registration, the individual must also be a DRI member and a member of DRI’s Corporate Counsel Committee. Offer excludes the DRI Annual Meeting.

Claims Executives

Any member of DRI employed as a claims professional by a corporation or insurance company, who spends a substantial portion of his or her professional time hiring or supervising outside counsel in the representation of business, insurance companies or their insureds, associations or governmental entities in civil litigation, will be entitled to free attendance at any DRI program. Nonmember claims executives should contact DRI’s Customer Service at 312.795.1101 for details. Offer excludes DRI Annual Meeting.

Travel Discounts

DRI offers discounted meeting fares on various major air carriers for DRI’s Complex Medicine Seminar attendees. To receive these discounts, please contact Hobson Travel Ltd., DRI’s official travel provider, at 800.538.7464. As always, to obtain the lowest available fares, early booking is recommended.

The taping or recording of DRI seminars is prohibited without the written permission of DRI.

Speakers and times may be subject to last-minute changes.

A small portion of your room rate offsets the costs of the seminar.

DRI policy provides there will be no group functions sponsored by others in connection with its seminars.

General Information
DIVERSITY AND INCLUSION IN DRI: A STATEMENT OF PRINCIPLE

DRI is the largest international membership organization of attorneys defending the interests of business and individuals in civil litigation.

Diversity is a core value at DRI. Indeed, diversity, which includes sexual orientation, is fundamental to the success of the organization, and we seek out and embrace the innumerable benefits and contributions that the perspectives, backgrounds, cultures, and life experiences a diverse membership provides.

Inclusiveness is the chief means to increase the diversity of DRI’s membership and leadership positions. DRI’s members and potential leaders are often also members and leaders of other defense organizations. Accordingly, DRI encourages all national, state, and local defense organizations to promote diversity and inclusion in their membership and leadership.
DRI wishes to thank our sponsors for their support at this year’s seminar!
Complex Medicine Seminar
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For inclusion on the preregistration list and to receive course materials in advance, register by October 24, 2014.

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Are you a first-time attendee at this DRI seminar?  ○ Yes  ○ No

How many attorneys are in your firm? ______________  What is your primary area of practice? _______________________

REGISTRATION FEE
Registration fee includes seminar attendance, networking events, course materials, and access to the DRI app. DRI will email a link to download the course materials to all registrants two weeks in advance of the seminar. The CD will be included in the registration packet on-site. You can order additional copies by checking the appropriate box below or going online at dri.org.

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- Law Student Member FREE
- In-House Counsel Member* FREE
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- Group Discount* $695 (*as defined on page 6)

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EXPERT SPEAKERS INCLUDING

Samuel D. Hodge, Jr.
Temple University

Ralph F. Valitutti, Jr.
Kitch Drutchas Wagner Valitutti & Sherbrook PC

Mark S. Wallace, M.D.
UC San Diego Health System

For inclusion on the preregistration list and to receive course materials in advance, register by October 24, 2014.

FREE REGISTRATION for
DRI In-House Counsel and Claims Executives.
See page 6 for details.