Releasing Legal Analytics for Federal Tort Litigation!

Lex Machina is excited to announce the launch of our new Torts module. Watch this recorded webcast to understand how Legal Analytics can help build litigation strategy and develop your litigation plan. Gain strategic insights into specific tort claims such as medical malpractice, premises liability, motor vehicle injury, and personal injury torts including negligence, assault/battery, and defamation. Learn how to apply current trends to your own litigation strategy.

Watch this webcast to see a demonstration of the new torts module with Tim Moore, Sales Director at Lex Machina, Anne Wise-Kann, Legal Data Expert at Lex Machina, and Dennis Stolle, President/ Consultant at ThemeVision.

Legal Analytics provide practice-specific information on judges, law firms, parties, timing, findings, damages, and more. These strategic insights help users make data-driven decisions which saves time and resources and helps users win. Over 3/4 of AmLaw100 firms, as well as many of the largest corporations in the world use Lex Machina.

Speakers:

Tim Moore
Sales Director
Lex Machina

Anne Wise Kann
Legal Data Expert
Lex Machina

Dennis Stolle
President/Consultant
ThemeVision

Tim Moore ([00:04](#)):

Hi, my name is Tim Moore from Lex Machina. I want to thank everyone for joining today's webcast to discuss Lex Machina's recently expanded torts practice area. After nearly a year of work, Lex Machina released our extended torts module on June 30th. We now have data on nearly 200,000 torts cases, making this the third largest practice area in the Lex Machina database. This new release expands our torts case set beyond just medical malpractice cases, now encompassing all federal personal injury cases in which an individual claimant is alleging physical or emotional harm.

Tim Moore ([00:40](#)):

Joining me today to discuss how you can leverage our new torts content is Dr. Dennis Stolle. Dr. Stolle is the president and founder of ThemeVision, a jury research and litigation consulting firm affiliated with Barnes & Thornburg.

Tim Moore ([00:56](#)):

At ThemeVision, Dr. Stolle uses data to develop persuasive trial themes and effective trial strategies with the focus on torts cases. Dr. Stolle, thanks for joining us today. Also joining Dr. Stolle is Anne Wise-Kann from Lex Machina. Anne is a legal data expert and led the Lex Machina team that created the torts practice variant.

Tim Moore ([01:16](#)):

I also wanted to mention that we will take some questions toward the end of the call via the chat box. Feel free to type in your questions at any point during the discussion. Lastly, please note that within the webcast platforms, you can resize the viewing window so you can clearly see everything that we'll walk through today. Also, if you're having any trouble seeing the live demonstration, please refresh your screen.

Tim Moore ([01:37](#)):

Dr. Stolle, could you get us started by telling us more about the unique work you do and how you use Lex Machina data?

Dennis Stolle ([01:45](#)):

Absolutely. First, I want to thank you for inviting me to be involved in this webinar today. ThemeVision, as you mentioned, is a trial consulting firm, and I am a legal psychologist. I have a law degree and also a PhD in social psychology with a heavy emphasis on statistics.

Dennis Stolle ([02:06](#)):

A big part of our focus at ThemeVision is to bring data driven decision making to the litigation process. All aspects of the process including, in particular, the assessment of risk. We use a number of different tools to collect data, and Lex Machina is among our toolkit for how we get the data that we use.

Tim Moore ([02:33](#)):

Thank you so much for joining us. It sounds like you really use Lex Machina in some interesting ways. I'm now going to turn it over to Anne Wise-Kann, who's going to walk through the new torts module and talk about what went into building this new practice area. Anne, it's all yours.

Anne Kann ([02:51](#)):

Hi, I hope everyone can see my screen. My name is Anne Wise-Kann, and as Tim said, I am a legal data expert here at Lex Machina. I've been working with a wonderful team for several months on the torts practice area, and I'm very excited to be able to show it to you today.

Anne Kann ([03:09](#)):

This is truly a massive case set, so we have a lot of valuable data to convey to users. So, right now we are looking at the main Lex Machina case page, which is currently displaying our nearly two million cases in our dataset. So, to filter to relevant cases for our purposes today, I can narrow our scope to the torts practice area by clicking on the federal tab up here, which I already did, and then selecting torts from the case type drop down here in the column on the left, and clicking apply.

Anne Kann ([03:46](#)):

Now, because different torts can be treated differently in court, we've subdivided our case set so that users can find the most relevant data for their situations and we've done this using case tags. So, our tags with the torts practice area include motor vehicle, premises liability, federal torts claims act, and medical malpractice cases.

Anne Kann ([04:12](#)):

Lastly, we've also created three new case tags to cover mass litigation campaign. These three, right here. We use these tags to identify cases filed as part of a large group of related torts claims arising out of the same event. Dr. Stolle, how can you use tags such as these mass tort tags in your practice?

Dennis Stolle ([04:35](#)):

Well, I like the tags and the reason why is because, in our practice, we're often looking at issues like how busy is the court's docket, and with what kinds of cases and what kinds of motions, and these mass torts filings can really throw off the numbers. It's essentially artificially inflating the appearance of certain kinds of filing motions and so forth. So, it's important to me to be able to exclude that information so I get a more accurate picture and being able to use some of the tags then makes that process a lot more efficient for me.

Anne Kann ([05:20](#)):

Thank you very much. One very useful type of data we offer is judge data. We can use Lex Machina to search for a judge and then further specify our search to meet our needs depending on the situation that we're in.

Anne Kann ([05:37](#)):

So, let's say you have a case in front of Judge Hillman in the district of New Jersey, and you'd like to investigate him to make a plan for your case. So, we can click up here on our courts and judges tab, and then in the search for judges search bar, we can search for Judge Hillman. So, here he is.

Anne Kann ([05:57](#)):

Now, on the main judge page, we can see some general biographical information about our judge, including how long, et cetera. If we scroll down, we can see this case is by type chart, and this chart shows the frequency of cases by case type before Judge Hillman, since 2009. So, this can give us a great idea of the kinds of cases he has a lot of experience handling and maybe some types of cases that he isn't as familiar with. He's had 462

torts cases before him since 2009, so hopefully we'll be able to see some patterns and we can get those cases by clicking this linked number here.

Anne Kann (06:43):

We can also check out the top law firms appearing in front of our judge. So, if we click the law firms tab up here, you may notice that the top firm representing defendants is the United States Department of Justice. This is because we have so many cases filed against the United States government under the Federal Tort Claims Act, which we identify with a specific case tag as we talked about a minute ago.

Anne Kann (07:12):

We do have the option here of running a law firms report. Users can get more information about firms appearing before Judge Hillman by running one of these, and it contains more detailed data on the frequency with which a firm has represented plaintiffs, defendants, or third party. So, this is the law firms report for those 462 torts cases, and we can see here, these are the names of the firms, total cases, and which parties they represent.

Anne Kann (07:49):

These are also... When we run a law firms report, the data returns will be based on the parameters that we set previously. So here, we're still only looking at those firms that have appeared before Judge Hillman, Dr. Stolle, how does the law firm's information help you inform your clients?

Dennis Stolle (08:10):

Well, in our particular practice at ThemeVision, our client representatives who we are in contact with are typically a national council. And so, it's someone who may be managing a portfolio of cases that are in jurisdictions all across the country, and so it's impossible in that position to know everything about all the law firms who might be filing cases, as well as the judges and so forth.

Dennis Stolle (08:43):

And so, this provides me with a quick and efficient way to get insights into a particular law firm, the extent to which that law firm appears in front of a particular judge and so forth, and then to convey that to my clients. And those relationships can be important, because that helps me to assess the overall risks when I look at the extent to which a particular law firm has experience with particular kinds of cases in front of the particular judge that we're dealing with.

Anne Kann (09:20):

Okay, thank you very much. So going back to our data about Judge Hillman, we can also talk about particular findings and defenses in torts cases. We go up here to the findings tab and scroll down to torts findings. Now, we've got plenty of findings and defenses in the torts practice area. We have 40 to be exact and I'm scrolling here so you can see the whole list.

Anne Kann (09:45):

That may seem like a lot, but we also have a whole lot to cover in this practice area. Remember we have almost 200,000 cases and we're dealing with intentional and unintentional torts claims. Now, because so much of torts litigation is based on negligence claims, we focused a great deal on negligence and no negligence

findings when we were developing this practice area. We divided up instances where a court found that there was no negligence into findings based on the elements of the negligence claim that the plaintiff failed to prove.

Anne Kann ([10:19](#)):

So we've got no negligence duty, no negligence breach, no negligence causation, or no negligence harm. Now, if we look at this finding chart, that is again, a chart for the findings before Judge Hillman, we can see that out of all the no negligent findings, Judge Hillman has made a finding of no negligence breach the most often. So, he's done that 11 times and he's almost always done so on summary judgment. We can see that 10 out of those 11 instances were on summary judgment. If we click this number here, we can scroll to a case list that contains all 10 cases where Judge Hillman found there was no negligence breach on a summary judgment order. And these cases are listed down here in the case list.

Anne Kann ([11:08](#)):

And so, those can be explored in more detail and you can click on those and see the full docket and check out documents if those would be interesting to drill down for you. Dr. Stolle, how does this findings information help you plan for client strategy?

Dennis Stolle ([11:29](#)):

Well, for me, in the way that I look at it, much of motion practice ends up being an exercise in making decisions between the trade off on cost and the effort of making a motion on one hand, and the probability that the motion is successful on the other hand. And so, what this data does, is it gives me a baseline set of data and information. That, of course, needs to be combined with the trial team's assessment of the facts and law and their individual case. But when you combine those two elements together, you get a better quality of decision making than you would if you looked at either one alone.

Anne Kann ([12:18](#)):

Thanks very much.

Tim Moore ([12:19](#)):

Hey Anne, this is Tim. I wanted to jump in. We're getting a little bit of feedback that your screen seems to be frozen. Maybe you could try to refresh real quick and try to share again? What we're seeing is just the judge summary page.

Anne Kann ([12:32](#)):

I'm sorry. Oh, okay. Has it changed now? Do you see the findings chart again?

Tim Moore ([12:42](#)):

No, I don't. Maybe if you want to just refresh the entire page that sometimes would do the trick.

Anne Kann ([12:47](#)):

Okay.

Anne Kann ([12:57](#)):

How about now?

Tim Moore ([13:01](#)):

Yes, it is working now. Thank you.

Anne Kann ([13:03](#)):

Okay, wonderful. Sorry about that. Okay. We're picking up where we left off. We can also take a detailed look at damages and we'll do that now that my screen's working again. And so these are going to be damages again in torts cases before Judge Hillman. So we'll click up here on the damages tab up at the top, and please let me know if this doesn't work. Torts damage types are pretty straightforward. Lex Machina offers data on damages awarded to torts victims for lost wages, medical expenses, pain, and suffering, and punitive damages.

Anne Kann ([13:35](#)):

We also record instances of damages awarded to surviving relatives and [inaudible 00:13:40], including loss of support, survivor expenses, and loss of consortium damages. So, this display gives us details of all the damage awards in cases before Judge Hillman since 2009. We can drill down further into the detail by seeing what specific damage types were awarded and by looking at this chart here to the right.

Anne Kann ([14:01](#)):

So, if we use this arrow to open up our torts damages information, we can see that damages have only been awarded in three cases total in front of Judge Hillman. So, if we're interested in punitive damages, for example, we can click on this linked number here, which will take us to a list of all Judge Hillman's cases with punitive damages awards, which is one.

Anne Kann ([14:27](#)):

So, here's our case list. And again, it only has one case in it. If there were more, this list would be lengthier. So, we would be able to scroll to the case list to take it, scroll down, to take a detailed look at individual cases. So we'll just take a look at this one.

Anne Kann ([14:46](#)):

On every Lex Machina case page, you'll find information about the court, the judge, the applicable nature of suit code and a case timeline up here at the top. We also have information displayed on party, case resolution, damages, findings, timing information, and then here at the bottom, the entire case docket is viewable with links to all docket entries in the case. If you click here, it'll just be the whole docket available.

Anne Kann ([15:23](#)):

Now, here, it looks like the damages in this case were awarded on default judgment at docket entry number 63, which we can access by this link here. This will take us directly to the document, which we can then view. We click over here on view documents.

Anne Kann ([15:45](#)):

And then we can take a look at this opinion and get an idea of maybe what the judge's thought process was in awarding these damages. Dr. Stolle, how can damages data help paint a realistic picture of a client's risk of incurring the money judgment?

Dennis Stolle ([16:01](#)):

Yeah, so I think it probably won't come as a surprise to anyone that my clients want to know how much their case is worth. That's part of the reason they come to me and we do a lot of different types of data collection. Things like surveys, mock trials and focus groups and so forth that gathers case specific information about particular facts. And so, that gives us one piece of the overall picture. Say that, just as an example, a mock jury comes back in one of our cases with a very large punitive damages verdict, a 500 million punitive damages verdict. That's something that we definitely have to talk to our clients about, but it also has to be put into the context, well, how often in the real world do damages, do awards like that actually happen?

Dennis Stolle ([17:02](#)):

And that allows our clients then to be able to go, if necessary, to management or the board of directors, whoever it is that they're reporting to and say, look, this case has a risk and here's how it came out in the mock, but consider that against the context of the fact that punitive damage awards don't happen that often, and we're not guessing about that. Here's the actual statistics on how often it happened in this particular jurisdiction.

Anne Kann ([17:33](#)):

Very good. Thank you. So lastly, I'd like to touch on an app that we've updated to include our new torts data. So, we can get to our app by clicking on the app link up here at the top. The Expert Witness Explorer app was previously available only to product liability practice area users, but it has been expanded to include torts.

Anne Kann ([17:59](#)):

So in the app, users can now select if they want to explore expert witness data for product liability cases, torts cases, or both. Data can be pared down by district court judge, by the court itself, or by the name of the expert witness. So, of course, we're going to search Judge Hillman here again, and we're going to search him for only torts. Now, we can see here that out of six total rulings on expert admissibility, Judge Hillman admitted expert witnesses in three cases. He limited the expert witness testimony or report in three cases, and he has never excluded anyone.

Anne Kann ([18:41](#)):

We also have data on which party was presenting the witness ruled upon in each instance, the names of the top expert witnesses before this particular judge, and the parties who are putting these witnesses forth.

Anne Kann ([18:57](#)):

If you click on the admissibility orders tab, we can view a list of every order entered in Judge Hillman's cases on expert admissibility, with links directly to each order. So, in this case, he's done this six times since 2009. Dr. Stolle, would an app like this be useful in your litigation consulting work?

Dennis Stolle ([19:19](#)):

Well, it would, and here's why. In the work that ThemeVision does, the kinds of cases that we're dealing with almost always involve some level of a battle of the experts. So, wrapping your arms around that issue is an important part of assessing the overall risk involved in a case. And so, we find ourselves often in situations where the trial team may need or want to advise the client that if they're successful in excluding a particular expert, it's going to lower the chances of the other side winning to a very, very remote possibility.

Dennis Stolle ([20:05](#)):

And that may be true on the particular facts of that case, but here, again, like I've said before, to be able to combine that judgment with some actual data so that the clients can, or the trial team can report up to the ultimate client, look we think that it's really important to file this motion. It could end up winning the whole case for us, but just so you know, our particular judge does not usually exclude expert testimony. And that just gives everybody a better sense for planning and preparing for the future and the future strategy involved in the case.

Tim Moore ([20:49](#)):

This is Tim again. I want to thank Anne for walking us through that in-depth walkthrough of the new torts content. And Dennis, thank you so much for giving us an idea of how you use this data in real time in your practice. On the screen now, you'll see several other logos of companies and law firms that use Lex Machina in similar ways, all to add data to their decision making process in regards to litigation. We did save some time for the questions. As a reminder, you can type in the questions into the chat box and we'll answer a few of them now. Maybe one to start off for Dennis, it sounds like you work with a lot of different attorneys. How do they react to this type of data driven approach, whether it's your attorneys or clients that you're working with?

Dennis Stolle ([21:42](#)):

Yeah, the reactions are generally positive, but they are sometimes positive in different ways. And so, what I mean by that is sometimes I will have a very seasoned trial lawyer who is not initially looking for this kind of data, but upon having the data and being able to report it to his ultimate client, realizing hey, my clients really like to have this data. So at that point, it becomes important to the trial lawyer to have that data, if nothing else, to provide the information to the client. But typically over time, the trial lawyer will also begin to recognize the importance of it.

Tim Moore ([22:32](#)):

Very interesting. And that's what we've seen too, as law firms are using this information for business development to share these insights with clients and potential clients. A question for you that came in along the lines of what's Lex Machina's process to code and tag these cases. Could you talk a little bit about what that looks like and the human and, kind of, the technology that goes into that process?

Anne Kann ([22:59](#)):

Absolutely. So, our process to code and tag everything is very complex and it takes a long time to get everything set up and we're very diligent about it. But the short version is, the first step we take is we establish what criteria we are going to code and tag our cases based on, and what data we want to collect from torts cases. Once we've established that criteria, we have a team of very talented engineers who have developed systems that can detect certain case characteristics, whether that's using natural language processing or other forms of technology. And so, a lot of our cases and some of the tags can actually be coded automatically by a computer.

Anne Kann ([23:49](#)):

However, that's not always true. It's not true even close to all of the time. And so, we also have a large team of lawyers who go through and code these cases and tag them manually.

Anne Kann ([24:05](#)):

And so, that is a very long and laborious process. It involves a whole lot of questions. It involves a whole lot of back and forth, but that is the way we do it for every practice area that we launch here at Lex Machina. That's how we continue to maintain our practice areas, is with real human beings going through these cases individually and tagging them for the data that we want to collect to give to our users.

Tim Moore ([24:32](#)):

That sounds like a lot of work when we're talking about 200,000 torts cases, so thanks for walking us through that. Another question for Anne back to damages: does Lex Machina distinguish between damages awarded by a judge versus damages awarded by a jury?

Anne Kann ([24:50](#)):

We do. So, that is a function of the type of case resolution. Those are not going to be distinguished by damage type. The damage types that we discussed during the presentation, so lost wages, medical expenses, punitive damages, things like that? Those types are going to be the same across the board. But when we annotate the damages data, we are always going to make a note of what type of resolution upon which those damages were awarded. And so, if it was a jury trial resolution, that's going to be part of that piece of data. If it were a bench trial resolution or resolution on summary judgment, where the damages were recorded by a judge, then that would be recorded as well.

Tim Moore ([25:42](#)):

Okay. Thanks for walking us through that detail. A question about coverage and another one for Anne. So, lots of questions for Anne today. Are torts cases still being added to Lex Machina, and if so, what is the percentage that are available on Lex Machina now?

Anne Kann ([26:00](#)):

So torts cases are being added to this practice area every day. That is what all of the lawyers that we had doing our initial case coding manually, that's what they're doing now. Whenever a torts case terminates, it is our policy to have that case up and in the product within 48 business hours. And so, that's a continuous maintenance process. And so, those cases are being added as they terminate, and since this is such a big practice area and torts is such a big area of the law, more torts cases are being added to our data set every day.

Anne Kann ([26:38](#)):

As far as what percentage are available on Lex Machina? So, for our purposes, the torts practice area is only personal injury torts, and they're only cases that are pending since 2009. So, if you mean what percent of all torts cases that have ever existed since the beginning of the American legal system, it's only going to be the ones as recent as 2009, and only the ones that meet our personal injury definition.

Anne Kann ([27:10](#)):

But if a case meets that definition, it is our policy to have it up and our dataset within 48 hours of termination.

Tim Moore ([27:20](#)):

Sounds good.

Anne Kann ([27:21](#)):

Hope that answers your question.

Tim Moore ([27:22](#)):

Yeah, for sure. A question for Dennis: it seems like a simple question, but it's probably a complex answer. The attendee asks, Dennis, what did you do or how did you accomplish these data driven approaches before Lex Machina?

Dennis Stolle ([27:42](#)):

There were some aspects of it that frankly we just could not do, or we could not do in a reasonably efficient manner. There were other aspects of it that we could do using paid searches and big databases, using statistics that are collected by federal courts and by state courts. That all worked fine, but it can sometimes be a pretty time intensive task to get that done, and there are still some aspects of our practice where we have to do it that way.

Dennis Stolle ([28:20](#)):

But what we like about Lex Machina is, for at least some aspects of what we do, it's now a whole lot more efficient because the information is pulled together and I can have confidence in the information because of the human review that Anne was talking about before, because the data is only as good as the accuracy of the data that goes in.

Tim Moore ([28:43](#)):

Thanks for kind of shining some light on your approach. One last question, I think I could take it. Someone asks, do we have other sets of data for other common law countries like the UK, Canada, or Australia? And probably the best way to answer that is not yet. If we look at the mission of Lex Machina, it's to bring these types of analytics to all areas of the law. As we've expanded to more federal areas like torts, like we walked through today, we're also expanding to state litigation, and eventually we'll be in all areas of law, inclusive of these other countries. So, stay tuned for more coming from Lex Machina.

Tim Moore ([29:20](#)):

Well, that concludes today's webcast. I'd like to, if you'd like to schedule a custom demonstration of Lex Machina to explore data as it relates to your cases and clients, simply reach out to me at tmoore@lexmachina.com or click on the request more information button in the email you'll be receiving shortly. I want to thank everyone for joining us today with a special thank you to Dr. Dennis Stolle from ThemeVision. Be well everyone and we'll talk to you soon.

Dennis Stolle ([29:48](#)):

Thank you.