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**August
25th**

20th Annual National Institute on Class Actions

*Come Celebrate Rule 23's Fiftieth Anniversary
with Judge Richard Posner, Professor Arthur
Miller, Professor John Coffee, and
Other Class-Action Luminaries.*

Because This Time What Happens in Vegas
Doesn't Stay in Vegas!

October 19-20, 2016
Wynn Las Vegas
Las Vegas, NV

ABA
AMERICAN BAR ASSOCIATION



20th Annual National Institute on Class Actions

October 19-20, 2016 | Wynn Las Vegas | Las Vegas, NV

Institute guests will learn the following critical things about today's class-action practice:

- Invaluable, real, and practical information about the most important class-action topics and trends
- How to grow your practice by recognizing class-action opportunities, allowing you to better help your clients and make more money for your firm
- Where the practice is going for plaintiffs' and defense attorneys and how to protect yourself against efforts to extinguish it

If you're serious about class actions, you should attend the Institute because:

- We will help you learn how to win at class certification
- We will help you to be the best, most informed class-action lawyer in your firm
- We will help you to impress clients and grow your business

Register Now and Save!

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	Early-Bird Rate Through Aug. 25	Advance Rate Aug. 26-Sept. 22	Standard Rate Sept. 23-Oct. 20
General Public	\$800	\$895	\$990
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ABA Section of Litigation	\$615	\$685	\$750
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Presented by ABA Section of Litigation

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New York, NY

Jennifer Bechet

Wal-Mart Stores, Inc.
Bentonville, AR

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Terrence G. Berg**

*United States District Court
for the Eastern District of
Michigan*
Detroit, MI

Arthur H. Bryant

Public Justice
Oakland, CA

Fred B. Burnside

Davis Wright Tremaine LLP
Seattle, WA

Elizabeth J. Cabraser

*Lieff Cabraser Heimann &
Bernstein, LLP*
San Francisco, CA

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Coffee, Jr.**

Columbia Law School
New York, NY

Professor Joshua P. Davis

*University of San Francisco
School of Law*
San Francisco, CA

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Vincent J. Esades

Heins Mills & Olson, P.L.C.
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Honorable Jack Zouhary

*United States District
Court for the Northern
District of Ohio*
Toledo, OH

Agenda

Tuesday, October 18, 2016

5:00 p.m.– **Vegas Vinyasa.**

6:00 p.m.
(optional) **Instructor:** Jennifer Hauge, Yoga at Work by Jennifer, Minneapolis MN

Location: TBD.

If the present state of class-action law has you not so present, just breathe and join us for evening yoga, taught by our Institute's resident yogi. It's the perfect way to bliss out before hitting the Strip, then joining us for two days of high-tilt class-action action. (**Importantly**, we can't guarantee yoga mats so please remember to bring your own.)

Wednesday, October 19, 2016 Let's Get Rollin'! It's Time for Day 1.

8:00 a.m.– **Double Downward-Facing Dog.**

9:00 a.m.
(optional) **Instructor:** Jennifer Hauge, Yoga at Work by Jennifer, Minneapolis MN

Location: TBD

If you're up for a little something extra, something to sweeten the pot, then join us for a.m. yoga. Jennifer will put us in the right state of mind for the two days that lie ahead.

11:00 a.m.– **Welcome to Vegas, Baby!**
11:15 p.m.

11:15 a.m.– **"Coming Out!" It's Class Actions 101.**

11:15 p.m. **Instructors:** Andrew J. McGuinness, Daniel R. Karon

Save the casino for later and enjoy the Institute's classic game, Class Actions 101. This class-action primer will showcase Federal Rule 23 and will describe as many class-action trends as croupiers Drew and Dan can deal. They will bring Rule 23 to life by applying it to real-life situations, examining whether class certification is appropriate. So whether you're a new lawyer or simply a lawyer new to class actions, join us for a kickoff program that Celine, Donny & Marie, and Cher together can't rival.

12:15 p.m.– **"Hit Me Again!" It's Class Actions 21, I mean 2-O-1.**
1:15 p.m.

Instructors: Lauren Guth Barnes, E. Colin Thompson

For the first time, we'll comp you with an advanced discovery course—Class Actions 201. We'll take the concepts and requirements from Class Actions 101 and learn how to channel them into written and oral discovery, either for winning class certification or for making plaintiff go bust. Because whether its blackjack, craps, or class certification, merely knowing the rules doesn't mean you know how to win the game.

1:15 p.m.– **"Box the Trifecta." Let's Play Class Actions 301.**

1:45 p.m. **Instructor:** Daniel R. Karon

While Vegas is full of big stages, the class-action practice all too often is not. (Should that compound adjective be hyphenated?) Motions are often decided on our prose (was that just the passive voice?) and not on oral argument. For this reason, it's essential to always be the better writer. (Was that split infinitive proper?) Like the Bellagio Buffet (is this a dangling modifier?), this program will binge on underappreciated writing fundamentals, such as grammar, usage, syntax, punctuation, pace, theme, typography, structure, and more. So if you want to be the best writer on the casino floor, won't you think about joining us. (Doesn't that sentence require a question mark? Do these?)

Agenda

1:45 p.m.–
2:00 p.m.

Blackjack Break

2:00 p.m.–
3:00 p.m.

“Viva Review!” The Past Year in Class-Action Action.

Instructors: Professor John C. Coffee, Jr., Professor Alexandra D. Lahav

Like the *Beatles’ Love*, *Jersey Boys*, and *Le Reve*, the past year offered showstopping class-action excitement. So back by popular demand, Professors Coffee and Lahav will showcase this year’s important class-action developments—developments that everyone must heed if they want to advise their class-action clients properly and avoid crapping out.

3:00 p.m.–
4:00 p.m.

“From Mirage to Immense.” The Genesis, Creation, and Evolution of Rule 23.

Host: Daniel R. Karon

Guest: Professor Arthur R. Miller

Fifty years ago, it was mostly desert. Then Rule 23 was created and everything changed. And though we claim to be class-action players of varying degrees, if pressed, it’s likely that none of us could speak to Rule 23’s purpose or development. But have no fear—Elvis is in the building. Professor Arthur Miller helped draft Rule 23. He will discuss the issues and problems that led to Rule 23’s creation, along with describing Rule 23’s evolution. Because if we, as class-action lawyers, don’t know all about the game we’re playing, how can we expect to win it?

4:00 p.m.–
4:15 p.m.

Poker Break

4:15 p.m.–
5:30 p.m.

“Winning Big or Crapping Out.” Class-Action Ethics from a Real-Life Perspective. [Ethics Credit!](#)

Host: Melissa H. Maxman

Guests: Honorable Gene E.K. Pratter, Elizabeth J. Cabraser, Professor Joshua P. Davis, Thomas G. Wilkinson, Jr.

When addressing ethics issues, the right choice isn’t always obvious. Solutions are nuanced and subject to interpretation and opinion. Is the right choice always easy to identify and implement, or do the odds change depending on the hand you’re dealt? We’ll analyze various lawyers’ ethics choices, debate whether these choices were right or wrong, and discuss how other choices might have reshaped the legal landscape. We’ll also consider recent suggestions in case law and legal literature that the ethics rules are (or should be) different for class-action cases. You won’t want to miss this program, which will rival anything on the Strip.

5:30 p.m.–
7:30 p.m.

Craps and Cocktails

Location: Eastside Lounge (Encore)

After having imbibed some good class-action content, rechannel your attention and join us for a cocktail party at the stylish Eastside Lounge in the Encore. In a casual atmosphere, you can network, meet other Institute guests, and get to know our faculty. This relaxed event in the hottest property on the Strip promises to hit the jackpot!

Agenda

Thursday, October 20 “Feelin’ Lucky?” It’s Day 2.

9:00 a.m.–10:00 a.m. **“A Winning Hand or a Flop?” After 50 Years, Are Class Actions Still Legit?**

Host: E. Michelle Drake

Guests: Michelle K. Fischer, Professor Richard D. Freer, Patrick J. Ivie, Jocelyn Larkin

We’re 50 years in and let’s face it, the public—and in some cases, judges—think class actions are a bust, with plaintiffs’ and defense lawyers as the only winners. Expecting that class actions will stick, we will challenge key class-action participants—lawyers, a judge, and a settlement administrator—about whether plaintiffs’ lawyers are to blame for filing bad cases, defense lawyers are at fault for adopting scorched-earth tactics and encouraging attack-dog rhetoric, judges are responsible for expressing skepticism about the motivations and legitimacy of both sides’ lawyers, or notice administrators are to blame for peddling worthless and outmoded claims-and-notice schemes. No one will be dealt out of what guarantees to be a provocative and high-stakes discussion of our shared future.

10:00 a.m.–11:00 a.m. **“Behind the Curtain.” Examining Class Actions from the In-House Perspective.**

Host: Sabrina H. Strong

Guests: Jennifer Bechet, Karin F.R. Moore, Ken K. Patel, Robert E. Bailey

Never mind that we may have seen “*O*,” *Zumanity*, or *Ka* countless times, we remain perplexed and intrigued by how their performers approach and attack every show. No different, outside lawyers are eternally fascinated by how in-house counsel approach and attack their companies’ class-action defense. Our show-stopping headliners will describe their attitudes and perspectives on such curious topics as the consequences of rising class-action filings, the factors that motivate litigation strategy, and in-house counsel’s influence over outside counsel’s relationship with plaintiffs’ attorneys. Whether you’re a plaintiffs’ or defense lawyer, this is a prized backstage pass that you can’t afford to squander.

11:00 a.m.–11:15 a.m. **Craps Break**

11:15 a.m.–12:15 p.m. **“Pit Boss Powwow.” Exactly What *Is* the MDL Judge College and How Does It Work?**

Host: Vincent J. Esades

Guests: Honorable Barbara J. Rothstein, Honorable Jack Zouhary, Honorable J. Frederick Motz

Sure, the advantage always goes to the house. But that doesn’t mean there’s not an arm’s-length relationship between dealer and player. Likewise, there’s an arm’s-length relationship between the court and counsel. To make MDL pretrial proceedings go more smoothly—for both sides—wouldn’t it be nice to know how judges are dealt class-action MDLs, what instruction judges get, and what training judges find useful? Learning how the house operates will allow class-action players to better work with the court. Our program will emphasize understanding between the bench and bar, so that MDL class actions play more effectively and efficiently.

12:15 p.m.–1:30 p.m. **Lunch at Costa di Mare (Wynn)**

1:30 p.m.–
2:15 p.m.

“Hitting the Jackpot!” A One-on-One Class-Action Conversation with Judge Richard Posner.

Host: Daniel R. Karon

Guest: Honorable Richard A. Posner (via Skype)

To help celebrate Rule 23’s fiftieth birthday—as well as the Institute’s twentieth anniversary—Judge Posner will share his thoughts on Rule 23’s purpose, development, deterioration, abuses, success, and anything else he’d like. Afterwards, he will field your questions so have some good ones up your sleeve. This amazing program is sure to steal the show.

2:15 p.m.–
3:15 p.m.

“Small Wagers, Big Results.” How the Supreme Court’s *Tyson Foods* Decision Could Affect Your Practice.

Host: Andrew J. McGuinness

Guests: Honorable Terrence G. Berg, Eric Grannon, James Langenfeld, Ph.D., Paul Novak, Joseph M. Sellers

Like the craps table at the Venetian, it’s the big games at the most glamorous hotels that captivate us. But what about the smaller contests at the more discreet venues, like, say, Keno at the Cromwell? Just because blockbusters *Comcast* and *Wal-Mart* enraptured us in recent years doesn’t mean smaller cases don’t hold similar or greater importance. Indeed, the Supreme Court’s recent *Tyson Foods* decision, which concerned an initially undramatic FLSA claim, could have massive implications for your practice. This modest case triggered a sprawling discussion of everything from statistical sampling at class certification to expert testimony to establish or allocate aggregate damages. We’ll showcase this important decision, then double down by holding a mock hearing based on its principles. With stakes like these, you don’t want to pass.

3:15 p.m.–
3:45 p.m.

Roulette Break, Institute Game, and Announcements

3:45 p.m.–
4:45 p.m.

“Into the Stratosphere or Simply a Circus Circus?” After Fifty Years, What’s Class Actions’ Future?

Host: Fred B. Burnside

Guests: Professor Brian T. Fitzpatrick, Professor Robert H. Klonoff, Arthur H. Bryant, Michael G. Rhodes

For fifty years, class actions have been going round and round like a roulette wheel, none of us knowing where they’ll stop. But can we understand what class actions will deal us next, so that we can properly hedge (or increase) our bets? For instance, are arbitration clauses still defendants’ ace in the hole considering the CFPB’s new proposed rules? Or if defendants win the *Spokeo* debate, does that effectively gut CAFA removal for precisely the type of cases that CAFA was intended to address? And will Justice Scalia’s passing cause an end to defendant’s Supreme Court hot streak? Our oddsmakers will debate the over/under on class actions’ future so that together we can advise our clients whether to double down or cash out.

4:45 p.m.–
4:50 p.m.

“Meet Me on the Strip!”

The Institute will conclude with some inspiring closing remarks and the opportunity to connect with each other and our Institute faculty. Then, it’s off to the Strip for a night of fun. Good luck!

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Scholarships

For more information on scholarships, visit www.americanbar.org/groups/cle/scholarship.

Attire

Business casual attire is appropriate for all activities.

Cancellations

Cancellations received five business days or more before the program will receive a full refund, less a \$50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA at (800) 285-2221 or fax your request to (312) 988-5850. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the program course materials after program completion.

Services for Persons with Disabilities

If special arrangements are required, please contact Donna Prather Williams at (312) 988-6210 or Donna.Williams@americanbar.org. Reasonable advance notice is requested.

In-Person Registration

If you plan to register in person, please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will not be accepted.

Program Confirmation

Written confirmation of your registration will be sent to you upon receipt. If you do not receive the confirmation notice prior to the program, please call the ABA at (800) 285-2221 at least 24 hours in advance to confirm that your registration was received and that the program is being held as scheduled.

Hotel Information

Wynn Las Vegas
3131 S. Las Vegas Blvd S
Las Vegas, NV 89109-1967
<http://www.wynnlasvegas.com/>

In order to book your room, call the hotel directly at 866.770.7555.

Group Code: 8NIC1016

Room Rates: Single: \$259 per night plus applicable taxes
Double: \$309 per night plus applicable taxes (Monday-Friday)
Tower: \$349 per night plus applicable taxes

Hotel Deadline: September 27, 2016.

Airline Information

Airline discount codes are available for ABA meetings as follows:

- **American Airlines:** ABA Discount only available at ABA Egencia www.egencia.com.
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Discount available at **www.united.com**; Online Discount Code: **ZVWE374477**
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Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Professional Development administers and produces National Institutes, webinars, teleconferences, other technology-based products and written course materials to assist lawyers' professional development efforts.

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	Early Bird Rate Through Aug. 25	Advance Rate Aug. 26 – Sept 22	Standard Rate Sept. 23 – Oct 20
General Public	\$800	\$895	\$990
ABA Members	\$690	\$770	\$850
ABA Section of Litigation	\$615	\$685	\$750
Government Lawyers/Employees	\$635	\$705	\$770

Step 2: Section Membership

- I qualify for a \$50/person group discount. Enter your \$50 discount on line 2B.
To qualify for a group discount, **three or more people** must register together. Please call us to register

Step 3: Course Materials

Electronic course materials will be available via download at least 48 hours prior to the start of the program.

A limited quantity of printed course materials will be available on-site for an additional \$50 fee.

- Please provide printed course materials on-site for \$50. Enter your \$50 fee on line 2D.

Step 4: Your Total Due Amount

Registration Rate (from Step 1)	2A	\$ _____
Three or More People Registering (from Step 1) <i>(\$50/person discount. Applicants must register together to receive discount)</i>	2B	\$ - _____
ABA Section of Litigation Membership Enrollment - \$60 (from Step 2)	2C	\$ + _____
Printed Course Materials - \$50 (from Step 1)	2D	\$ + _____
	Total	\$ _____

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