24th National M&A Institute

November 7-8, 2019
Encore at Wynn Las Vegas
Las Vegas, NV

Visit ambar.org/mergers2019 to register
24th National M&A Institute

November 7–8, 2019 | Encore at Wynn | Las Vegas, NV

Why you should attend:

Gain an in-depth perspective on negotiating business acquisitions that covers both fundamental and cutting-edge issues during this annual in-person national institute, sponsored by the Business Law Section of the American Bar Association. Expert panelists include nationally known mergers & acquisitions attorneys from across North America who will discuss all facets of the acquisition process, including:

- Techniques used in structuring and negotiating M&A deals
- The tax and securities law aspects of business acquisitions
- The methodologies utilized in valuing acquisition targets

This national institute includes an extensive mock negotiation that will give you valuable insights on negotiating key representations, warranties, closing conditions, and indemnification provisions in an acquisition agreement.

Past Participants Have Said...

“This is a great program. It has already saved me a quarter million dollars in a pending transaction.”

“Excellent program. I’ve been doing transactional work for over 20 years and still learned valuable information on current practice tips and recent trends in private and public deals.”

“Perhaps the best CLE program I’ve ever attended...loved the mock negotiation format.”

“Panelists were experts, but also able to communicate effectively. Topics were all relevant and practical. Easily the best CLE I’ve attended in 23 years!”

“Great opportunity to take a deep dive into high-level concepts outside the context of a deal. I think I have a better understanding of deal dynamics after attending.”

“Really liked the simulated negotiation in the second presentation and use of visual aids in the first presentation. I liked the way that sell-side buy-side perspectives were given for all issues throughout all of the presentations.”

“Great competency of the speakers. But more so, great ability to communicate. Also, all of the speakers were very personable and helpful regarding answering questions.”

13 hrs CLE credit (incl. 1 hr Ethics)

Not an ABA Member? Join Now! www.ambar.org/join

ABACLE National Institutes bring you face-to-face with nationally recognized experts on substantive topics—often while fulfilling most of your annual CLE requirements.
<table>
<thead>
<tr>
<th>Name</th>
<th>Firm/Company</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Richard E. Climan</td>
<td>Hogan Lovells US LLP</td>
<td>Silicon Valley, CA</td>
</tr>
<tr>
<td>Joel I. Greenberg</td>
<td>Arnold &amp; Porter LLP</td>
<td>New York, NY</td>
</tr>
<tr>
<td>Scott T. Whittaker</td>
<td>Stone Pigman Walther Wittmann LLC</td>
<td>New Orleans, LA</td>
</tr>
<tr>
<td>David I. Albin</td>
<td>Finn Dixon &amp; Herling LLP</td>
<td>Stamford, CT</td>
</tr>
<tr>
<td>Samantha G. Horn</td>
<td>Stikeman Elliott LLP</td>
<td>Toronto, ON</td>
</tr>
<tr>
<td>Jennifer Muller</td>
<td>Houlihan Lokey</td>
<td>New York, NY</td>
</tr>
<tr>
<td>Michael G. O’Bryan</td>
<td>Morrison &amp; Foerster LLP</td>
<td>San Francisco, CA</td>
</tr>
<tr>
<td>Eileen T. Nugent</td>
<td>Skadden, Arps, Slate, Meagher &amp; Flom</td>
<td>New York, NY</td>
</tr>
<tr>
<td>George M. Taylor III</td>
<td>Burr &amp; Forman LLP</td>
<td>Birmingham, AL</td>
</tr>
</tbody>
</table>
**THURSDAY, NOVEMBER 7**

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
</tr>
</thead>
</table>
| 8:45–9:00 am  | **Introduction**  
               | Co-Chair, Richard E. Climan                                                                     |
| 9:00–10:00 am | **The Basics: Acquiring a Privately Held Business for Cash**  
               | This session will address the various ways of structuring acquisitions of privately held businesses (including acquisitions of stock, acquisitions of assets, and mergers) and the corporate, tax, and other issues that must be considered in selecting among the alternative transaction structures.  
               | Richard E. Climan, Joel I. Greenberg, Samantha G. Horn                                           |
| 10:00–10:45 am| **The Basics: Acquiring a Privately Held Business for Stock**  
               | This session will focus on the special corporate, tax, securities law, and pricing issues that must be addressed when the acquiring company issues shares of its own stock as part of the purchase price in an acquisition.  
               | Richard E. Climan, Joel I. Greenberg, Samantha G. Horn                                           |
| 10:45–11:00 am| **Break**                                                                                       |
| 11:00 am–12:30 pm | **Negotiating the Acquisition Agreement**  
               | The panelists, in the context of an interactive mock negotiation, will highlight the give and take between the buyer and sellers in the negotiation of the definitive agreement for the acquisition of a privately held company. They will address the negotiation and drafting of purchase price provisions, critical representations and warranties, closing conditions and indemnification provisions, and the interplay among these key provisions. They will also offer their insights on recent trends in the negotiation of escrows, “material adverse change” clauses, “non-reliance” clauses, and “sandbagging” provisions, as well as other issues of current importance to M&A dealmakers.  
               | David I. Albin, Richard E. Climan, Joel I. Greenberg, Eileen T. Nugent, Scott T. Whittaker      |
| 12:30–1:45 pm | **Networking Lunch**                                                                            |
| 1:45–3:15 pm  | **Negotiating the Acquisition Agreement** (cont’d)                                               |
| 3:15–3:30 pm  | **Break**                                                                                       |
| 3:30–4:30 pm  | **Negotiating the Acquisition Agreement** (cont’d)                                               |
| 4:30–5:30 pm  | **Special Issues in Asset Acquisitions**  
               | This session will highlight the special considerations that the parties must take into account when they choose to structure their transaction as a purchase of assets, rather than as a stock purchase or a merger. The panelists will address such matters as successor liability, stockholder approval, and fraudulent transfers. They will also discuss the contentious issues that can arise when the assets being purchased comprise a separate division of the seller.  
               | Samantha G. Horn, Michael O’Bryan, George M. Taylor III                                         |

Agenda subject to change without notice.
FRIDAY, NOVEMBER 8

8:30–10:00 am  **Valuation and Purchase Price-Related Issues**
This panel, which includes an experienced investment banker, will explain the basic tools, metrics and techniques used by financial professionals in valuing acquisition targets. The panelists will also address issues that arise in the context of negotiating “earn-out” pricing formulations, and various post-closing price adjustment mechanisms.
Joel I. Greenberg, Jennifer Muller, George M. Taylor III, Scott T. Whittaker

10:00–10:15 am  **Break**

10:15–11:15 am  **Ancillary Documents**
The panelists will highlight the issues that arise in drafting and negotiating M&A-related confidentiality agreements, exclusivity agreements and letters of intent.
Samantha G. Horn, George M. Taylor III, Scott T. Whittaker

11:15 am–12:15 pm  **Private Equity Buyers**
Private equity buyers—financial sponsors—account for a significant portion of worldwide and domestic M&A volume. This panel will explain the special issues that need to be addressed in M&A transactions involving PE buyers. These issues include use of debt to finance the acquisition, the target company’s remedies in the event of a financing failure, rollover of management equity, potential conflicts of interest faced by management directors, and frequent use of representation & warranty insurance.
David I. Albin, Joel I. Greenberg, Samantha G. Horn

12:30–1:30 pm  **Networking Lunch**

1:30–3:15 pm  **Acquiring a Public Company**
The panelists will describe how acquisitions of public companies differ from acquisitions of privately held companies in the context of cash acquisitions as well as “stock-for-stock” transactions. They will discuss both one-step mergers and two-step acquisition structures involving tender offers, and will provide practical insights into compliance with applicable SEC regulations. A portion of the session will be devoted to advising a board of directors in considering the possible sale of a public company. The panelists will also review “deal protection” provisions that may be utilized in the acquisition of a public company, including “no-shop/no-talk” provisions, “break-up” fees, “match” rights, and stockholder support agreements.
Richard E. Climan, Joel I. Greenberg, Eileen T. Nugent, Michael O’Bryan

3:15–3:30 pm  **Break**

3:30–4:30 pm  **Ethical Issues in M&A Transactions**
This session will examine some of the challenging ethical issues that can arise in the context of M&A transactions. The panelists will discuss issues relating to truthfulness in negotiations, the so-called “anticontact” rule, and conflicts of interest that may exist between various categories of selling stockholders. In this context, the panelists will address Rules 1.7, 4.1, and 4.2 of the Model Rules of Professional Conduct.
David I. Albin, Michael O’Bryan, Eileen T. Nugent

Agenda subject to change without notice.
The ABA reserves the right to correct all typographical errors. Fees do not include travel or lodging.

<table>
<thead>
<tr>
<th>Registration rates</th>
<th>SAVE when you register by Oct 2nd</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Public</td>
<td>$1,500</td>
</tr>
<tr>
<td>ABA Members</td>
<td>$1,200</td>
</tr>
<tr>
<td>ABA Business Law Section Members</td>
<td>$1,050</td>
</tr>
</tbody>
</table>

The ABA reserves the right to correct all typographical errors. Fees do not include travel or lodging.

**General Public**

- $1,500

**ABA Members**

- $1,200

**ABA Business Law Section Members**

- $1,050

**General Public**

- $1,200

**ABA Members**

- $1,050

**ABA Business Law Section Members**

- $900

**Government, Academic, Solo/Small Firm and Student Rates Available**

Hardcopy and electronic course materials are provided as part of your registration.

Save when you register three (3) or more attendees for in-person events:

- 3–5 attendees—SAVE 5%
- 6–10 attendee—SAVE 10%

**To sign-up a group of 3-10 attendees and save on registration, please contact the ABA Service Center at (800) 285-2221**

**Join the ABA!**

Join the ABA and save: [https://www.americanbar.org/membership/dues_eligibility/](https://www.americanbar.org/membership/dues_eligibility/)

Join the ABA Business Law Section for only an additional $65/yr

**How to Register**

Visit: [ambar.org/mergers2019](http://ambar.org/mergers2019) or call us at (800) 285-2221

**Meeting Information**

**MCLE**

The ABA will seek 13 hours of CLE general credit in 60-minute states, and 15.6 hours of CLE general credit for this program in 50-minute states, including 1 hour of CLE ethics credit in 60-minute states and 1.2 hours of CLE ethics credit in 50-minute states. Credit hours are estimated and are subject to each state’s approval and credit rounding rules. Please visit the program website at [ambar.org/mergers2019](http://ambar.org/mergers2019) for program CLE details or visit [www.americanbar.org/mcle](http://www.americanbar.org/mcle) for general information on CLE at the ABA.

**Scholarships**

Financial scholarship applications are available for this conference. To request an application or receive additional information, please go to this link: [https://www.americanbar.org/events-cle/abacle/scholarship/](https://www.americanbar.org/events-cle/abacle/scholarship/)

**Cancellations**

Cancellations received five (5) business days or more before the program will receive a 100% refund, less a $50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome before the program starts. 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 the program.

**Hotel**

Encore at Wynn Las Vegas Hotel
3131 Las Vegas Boulevard South
Las Vegas, NV

The ABA has secured a block of rooms at the Encore at Wynn Las Vegas. Reservations can be made by calling (866) 770-7555. Refer to the ABA National M&A Institute or use the Group Code 6MAM1119 to obtain our specially negotiated group rates.

**Travel**

**Airfare**: ABA members are eligible for discounted airfare through our travel provider Egencia.

**Car Rental**: ABA members are eligible for discounted car rental and free Gold Plus Rewards through Hertz.
Introducing the New ABA

You will see significant changes in the world’s largest association for lawyers.

- **The cost of membership** is now, well... sensible. Take a look at the simplified dues structure. **NEW!**
- **Your ABA now delivers** the latest news and information about your specific practice area. Just the facts you need to excel in your practice areas!
- **Premium programs** from the CLE Member Benefit Library now included with your membership. **NEW!**
- **Exclusive content** you can use to build your practice included with membership from the Law Practice and General Practice Solo Divisions. **NEW!**
- **Self-assessment tools**, real-time resumé and interview feedback powered by artificial intelligence is now yours in a newly launched Career Center. **NEW!**

### Simplified ABA Membership Dues

<table>
<thead>
<tr>
<th>LAWYERS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Years Since Original Bar</strong></td>
<td><strong>Dues</strong></td>
</tr>
<tr>
<td>0-4</td>
<td>$75</td>
</tr>
<tr>
<td>5-9</td>
<td>$150</td>
</tr>
<tr>
<td>10-14</td>
<td>$250</td>
</tr>
<tr>
<td>15-19</td>
<td>$350</td>
</tr>
<tr>
<td>20+</td>
<td>$450</td>
</tr>
<tr>
<td><strong>OTHERS</strong></td>
<td><strong>Recent Law School Graduates</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Paralegals</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Affiliated Professionals</strong></td>
</tr>
<tr>
<td></td>
<td><strong>International Lawyers</strong> (not licensed by a US bar)</td>
</tr>
<tr>
<td><strong>LAW STUDENTS</strong></td>
<td><strong>Member</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Premium Member</strong></td>
</tr>
</tbody>
</table>

Start your ABA membership today at [ambar.org/join20](http://ambar.org/join20)
24th National M&A Institute
AMERICAN BAR ASSOCIATION
321 N. CLARK STREET
CHICAGO, ILLINOIS 60654

Look inside for
Course Curriculum, Faculty Roster, Early Bird Savings and more!