

**AMERICAN BAR ASSOCIATION
BUSINESS LAW SECTION
CONSUMER FINANCIAL SERVICES COMMITTEE
2018 WINTER MEETING SCHEDULE
Park City, UT
January 6-9, 2018**

Saturday, January 6, 2018

3:00-7:00 p.m.

REGISTRATION

Kokopelli Lobby

4:00-6:00 p.m.

CLE PROGRAM: *Beer and Basics*

White Pine Ballroom

PRESENTED BY: YOUNG LAWYERS SUBCOMMITTEE

GENEROUSLY SPONSORED BY: DAVIS WRIGHT TREMAINE LLP

The Beer & Basics program will provide introductory presentations on a number of topics relevant to consumer financial services. The topics will include: (a) whether actual payment of complete relief moots a plaintiff's individual and class claims as suggested by the Court in *Campbell-Ewald v. Gomez*; (b) an overview of the financing models and regulatory issues faced by Financial Technology (FinTech) companies; (c) a survey of the issues facing the consumer financial services industry relating to online identity verification; and (d) an overview of the background, history, and current issues relating to the Prepaid Card Rule.

Chair:

Marci Kawski, Husch Blackwell LLP, Madison, WI

Speakers:

Julia Dempewolf, Davis Wright Tremaine LLP, Washington, DC

Katie Hawkins, Hudson Cook LLP, Portland, ME

Jim Morrissey, Pilgrim Christakis LLP, Chicago, IL

Patrick Yoest, PNC Bank, N.A., Pittsburgh, PA

Program Materials Coordinator:

Robert Savoie, McGlinchey Stafford, New Orleans, LA

6:00-7:30 p.m.

WELCOME RECEPTION

Kokopelli Ballroom

GENEROUSLY SPONSORED BY: MCGLINCHEY STAFFORD & BALLARD SPAHR

Mix and mingle with your fellow attendees during the evening social hour.

Chair:

Andrew M. Smith, Covington & Burling LLP, Washington, DC

8:00-10:00 p.m.
HOSPITALITY SUITE
Painted Horse

GENEROUSLY SPONSORED BY: GOODWIN

Chair:
Andrew M. Smith, Covington & Burling LLP, Washington, DC

Sunday, January 7, 2018

7:00 a.m.-1:00 p.m.
REGISTRATION
Kokopelli Foyer

7:00-8:30 a.m.
BREAKFAST
Kokopelli Foyer

7:00-8:00 a.m.
WELCOME AND INTRODUCTIONS
Kokopelli Ballroom

Chair:
Andrew M. Smith, Covington & Burling LLP, Washington, DC

Vice-Chairs:
Anna Katrina Christakis, Pilgrim Christakis, Chicago, IL
Veronica McGregor, Hogan Lovells US LLP, San Francisco, CA
Thomas Buiteweg, Hudson Cook LLP, Ann Arbor, MI

8:00-9:00 a.m.
CLE PROGRAM: *Is That Really You? Online and Mobile Identification Verification Services and Their Use in the Provision of Consumer Financial Services*
Kokopelli Ballroom

PRESENTED BY: *Electronic Financial Services and Digital Currency*

It has become increasingly difficult to verify consumers' identities online, especially in the wake of recent breaches involving credentialing information, such as user names and passwords. Traditionally, to augment these user credentials, companies have relied on so-called "out-of-wallet" questions, but it is not clear whether the databases from which these questions come are completely secure or reliable. There are a number of new technologies aimed at making online and mobile identify verification easy and effective. New technologies leverage "selfies" and other biometrics, online account aggregator services, behavioral intelligence algorithms, and text messages. This program will provide an overview of these new technologies and discuss their legal implications.

Co-Chairs:

Eric L. Johnson, Hudson Cook LLP, Oklahoma City, OK
Mark Furletti, Ballard Spahr LLP, Philadelphia, PA

Moderator:

Kim Phan, Ballard Spahr LLP, Washington, DC

Speakers:

Andrew Cosgrove, Upgrade, Inc., San Francisco, CA
Aki Estrella, Allstate, Chicago, IL

9:00-10:30 a.m.

CLE PROGRAM: *Cybersecurity Compliance in Light of the Equifax Breach & Evolving Regulatory Landscape*
Kokopelli Ballroom

JOINTLY PRESENTED BY: Privacy and Data Security & Compliance Management

The program will address the following topics: (1) current and evolving legal and regulatory standards and industry best practices for cybersecurity compliance and data breach response programs (banking agency guidance, FTC safeguards rule, and state Laws, including the NY DFS Cybersecurity Rule); (2) preparing for a potential data breach or other cybersecurity incident before it happens (including running data breach drills); (3) using cyber-insurance effectively to manage risk; (4) responding to a data breach at your company and crisis communication strategies; (5) responding to a data breach at another company that affects your customers; and (6) managing litigation risks and strategies for limiting liability for data breaches and other cybersecurity incidents, including cyber-coverage issues.

Co-Chairs:

John Morton, Mariner Finance LLC, Baltimore MD
David Stein, Covington & Burling LLP, Washington, DC

Moderator:

Monika McCarthy, Cross Check Compliance, Chicago, IL

Speakers:

Dan Healy, Partner, Anderson Kill, P.C., Washington, DC
Jennifer Martin, Of Counsel, Covington & Burling LLP, Redwood Shores, CA
Ben Rossen, Federal Trade Commission, Washington, DC
Thomas Scanlon, Of Counsel, Davis, Wright Tremaine LLP, Washington, DC

10:30 -11:30 a.m.

CLE PROGRAM: *Shopping for Consumer Financial Services Online: Issues with Lead Generators, Aggregators, and Influencers*
Kokopelli Ballroom

PRESENTED BY: Federal & State Trade Practices

This panel will explore the numerous UDAAP concerns and other pitfalls with online marketing through lead generators, product aggregators, and social media influencers. Hear perspectives from the FTC on disclosure expectations when financial service providers use these advertising channels, and from in-house counsel at a financial services provider and a product aggregator on how to manage these regulatory expectations while balancing business partners' demands for increased conversion rates. The panel will also explore burgeoning technologies and

innovations that are likely to impact how consumers shop and receive offers for consumer financial services online.

Chair:

Lucy Morris, Hudson Cook, LLP, Washington, DC

Moderator:

Adam Maarec, Davis Wright Tremaine LLP, Washington, DC

Speakers:

John Morton, Mariner Finance, Baltimore, MD

Malini Mithal, Federal Trade Commission, Washington, DC

Laura Weissbein, Credit Karma, San Francisco, CA

11:30 a.m. -12:00 p.m.

ROUNDTABLES

Discussions of late breaking topics not otherwise covered.

Co-Chairs:

Sanford Shatz, McGlinchey Stafford, Irvine, CA

Heather Thayer, Thayer Legal Services, Minneapolis, MN

Roundtable One: *DoD's Recent "Interpretive Rule" Under MLA*
White Pine Parlor 1

Facilitators:

Michael Benoit, Hudson Cook, Washington, DC

Kelly Lipinski, McGlinchey Stafford, Cleveland, OH

Roundtable Two: *Mick Mulvaney, the CFPB and the Future of Consumer Financial Protection*

White Pine Parlor 2

Facilitators:

Eric Mogilnicki, Covington, Washington, DC

Aaron Mahler, Buckley Sandler, Washington, DC

Roundtable Three: *Alternative Currencies and Block Chain*
Arrowhead

Facilitator:

Veronica MacGregor, Goodwin

Roundtable Four: *PACE Financing Issues (Property Assessed Financing Issues)*
Painted Horse

Facilitators:

Fredrick Levin, Buckley Sandler, Santa Monica, CA

Kim Holzel, Goodwin, Boston, MA

12:00-1:00 p.m.

BROWN-BAG LUNCH

IN-HOUSE COUNSEL ROUNDTABLE

Arrowhead

Chair:

Meg Milroy, Verizon, Arlington, VA

4:30-5:30 p.m.

LEADERSHIP MEETING

White Pine Parlor 1 & 2

7:00-10:00 p.m.

CFSC DINNER (TICKETED EVENT)

Kokopelli Ballroom

GENEROUSLY SPONSORED BY: HUDSON COOK AND COVINGTON & BURLING

Monday, January 8, 2018

7:00a.m.-1:00 p.m.

REGISTRATION

Kokopelli Lobby

7:00-8:30 a.m.

BREAKFAST

Kokopelli Lobby

7:00-8:00 a.m.

DIVERSITY BREAKFAST: *Diverse Legal Career Paths in Consumer Financial Services*

White Pine Ballroom 1 & 2

HOSTED BY: Task Force on Diversity and Inclusion

GENEROUSLY SPONSORED BY: SEVERSON & WERSON

The financial crisis of 2007 ushered in widespread changes in the regulatory system, which caused consumer financial services practices to expand rapidly. Consequently, the diversity of thought leaders and practitioners grew significantly in all practice areas, including regulatory, private practice, in-house, and plaintiff's counsel. This panel will discuss their unique professional experiences en route to becoming consumer financial services attorneys.

Chair:

Sharmin Arefin, Founder and Managing Attorney, The Arefin Law Office, LLC, Norcross, GA

Moderator:

Sharmin Arefin, Founder and Managing Attorney, The Arefin Law Office, LLC, Norcross, GA

Speakers:

David Esquivel, Member, Bass, Berry & Sims PLC, Nashville, TN

Yolanda Gamboa, Associate General Counsel, SVP, Bank of America, Chicago, IL

Malini Mithal, Acting Associate Director, Division of Financial Practices, Federal Trade Commission

Mauricio Videla, Enforcement Attorney, Consumer Financial Protection Bureau, Washington, DC

Dsu-Wei Yuen, Associate, Davis Wright Tremaine LLP, Seattle, WA

Tashia Zeigler, Founder and Managing Attorney, The Zeigler Firm, LLC, Atlanta, GA

8:00-9:00 a.m.

TRACK 1: NON-MORTGAGE TRACK

CLE PROGRAM: *The Full Spectrum of TCPA Litigation – From Phone Call to Judicial Opinion*
Kokopelli Parlor 1 & 2

PRESENTED BY: Debt Collection Practices and Bankruptcy

The presenters will focus on the recent surge in Telephone Consumer Protection Act (TCPA) litigation, providing insight into consumers' increasing awareness of the statute, technological developments leading to a dramatic rise in TCPA claims and tools being used by consumers to document and compile evidence supporting their claims. Additionally, the presenters will discuss new regulatory updates, the status of the D.C. Circuit appeal of the FCC's July 10, 2015 Order, novel defense strategies and significant case law developments.

Chair:

Alan D. Leeth, Burr & Forman LLP, Birmingham, AL

Speakers:

Lauren E. Campisi, McGlinchey Stafford, New Orleans, LA

Katrina Christakis, Pilgrim Christakis LLP, Chicago, IL

Zachary D. Miller, Burr & Forman LLP, Nashville, TN

8:00-9:00 a.m.

TRACK 2: MORTGAGE TRACK

CLE PROGRAM: *A TILA Potpourri: While We Catch our Breadth*
Kokopelli Parlor 1

PRESENTED BY: Truth-in-Lending Subcommittee

This panel will discuss (1) A mortgage mystery – what happens to ARMs when LIBOR goes away? (2) in-flight and proposed TRID changes; and (3) the impact of recent implementation of mortgage servicing rule changes.

Chair:

Jeffrey A. Rodgers, Flagstar Bank, Troy, MI

Speakers:

Jason Bushby, Bradley Arant Boult Cummings, Birmingham, AL

Heather Hutchings, Bradley Arant Boult Cummings, Washington, DC

Jeffrey A. Rodgers, Flagstar Bank, Troy, MI

9:00-10:00 a.m.

TRACK 1: NON-MORTGAGE TRACK

CLE PROGRAM: *When is Precedent Not Enough? When the Seventh Circuit Applies the FDCPA*
Bona Fide Error Defense to Lawyers
Kokopelli Parlor 2 & 3

PRESENTED BY: Litigation & Arbitration

In *Oliva v. Blatt*, No. 15-2516 (July 24, 2017), the Seventh Circuit, sitting en banc, found a prior Seventh Circuit decision (addressing the venue provision within the FDCPA) erroneous and

determined a law firm-debt collector who had followed the prior decision not entitled to a bona fide error defense. This panel will examine the Seventh Circuit decision (and its vigorous defense and the application of its holding retroactively, the future of the bona fide error defense and the risks faced by law firm-debt collectors.

Co-Chairs:

David Bizar, Seyfarth Shaw, Boston, MA

Jonathan N. Ledsky, Husch Blackwell, Chicago, IL

Moderator:

David Bizar, Seyfarth Shaw, Boston, MA

Speakers:

Sabrina A. Neff, Husch Blackwell, Houston, TX

Omar Sulaiman, Atlas Consumer Law, Lombard, IL (Plaintiff's counsel in Oliva)

9:00-10:00 a.m.

TRACK 2: MORTGAGE TRACK

CLE PROGRAM: *New Federal Trade Secrets Act's Impact on Mortgage Originator Recruiting*
Kokopelli Parlor 1

PRESENTED BY: Housing Finance

Congress passed the Defend Trade Secrets Act in May 2016, creating a federal cause of action for trade secrets misappropriation for the first time. Panelists will address the effect this new federal legislation is having, and may have, on the recruiting practices of mortgage lenders, including best practices for companies to employ in recruiting to minimize risk, and the latest updates on court opinions construing the new legislation.

Chair:

Christine Acree, Ellie Mae, Irvine, CA

Moderator:

Jason McElroy, Weiner Brodsky Kider PC, Washington, DC

Speakers:

Carnesha Craft, Homeservices Lending LLC, Philadelphia, PA

Jason McElroy, Weiner Brodsky Kider PC, Washington, DC

Ernest Wagner, Maurice Wutscher, Chicago, IL

10:00-11:00 a.m.

TRACK 1: NON-MORTGAGE TRACK

CLE PROGRAM: *Developments in Servicemember Lending and Servicing: Regulatory and Enforcement Updates*
Kokopelli 2 & 3

PRESENTED BY: Personal Property Financing

Legal protections for military members remains a priority for consumers, creditors, and regulators. This program will discuss the Military Lending Act credit card account rules that took effect on October 3, 2017 and practical issues that arise from the MLA Final Rule. The panel will also discuss recent developments in Servicemember Civil Relief Act examinations and enforcement actions.

Chair:

John Redding, Buckley Sandler LLP, Los Angeles, CA

Vice-Chair

Kelly Lipinski, McGlinchey Stafford, Cleveland, OH

Speakers:

Jeff Angell, Alliance Data Systems and Ohio Army National Guard, Columbus, OH (invited)

Bryan Kostura, McGlinchey Stafford, Cleveland, OH

Trevor Salter, Morrison & Foerster LLP, Washington, DC

10:00-11:00 a.m.

TRACK 2: MORTGAGE TRACK

CLE PROGRAM: *The Impact of Proposed Housing Finance Reform Policies on Lenders and Home Buyers*

Kokopelli Parlor 1

PRESENTED BY: Consumer Financial Services Committee

The GSEs experienced rapid and strong growth until the financial crisis leveled the housing market. After placing Fannie Mae and Freddie Max into conservatorship, Congress is seeking to scale back the size and importance of the GSEs, while maintaining a robust, and liquid, housing finance marketplace. This program will look at the scope and impact of the GSEs, and explore the various proposals for GSE reform and their impact on the housing market. The panel will address the role of FHA lending, especially as it relates to GSE reform.

Speakers:

Michael Flynn, Goodwin, Washington, DC

Steven Sharpe, Legal Aid Society of Southwest Ohio, LLC, Cincinnati, OH

11:00 a.m. -12:00 p.m.

TRACK 1: NON-MORTGAGE TRACK

CLE PROGRAM: *Consumer Finance Basics in the U.S. and Canada: A Comparative Perspective*
Kokopelli Parlor 2 & 3

PRESENTED BY: International Task Force

Consumer financial products and services are not confined by national borders. Given the transnational reach of creditors and technology, companies (and their counsel) must increasingly be aware of cross-border compliance issues and developments. This program will provide an interactive overview on key areas of consumer financial services law, comparing the laws of the United States and Canada. Areas covered will include prepaid/gift cards, reward programs, lending disclosure, privacy/spam, unfair and misleading practices, and credit reporting.

Chair:

Matthew Stromquist, Pilgrim Christakis LLP, Chicago, IL

Moderator:

Matthew Stromquist, Pilgrim Christakis LLP, Chicago, IL

Speakers:

Suhuyini Abudulai, Cassels Brock, Toronto, ON

Robin Nunn, Davis Wright Tremaine LLP, Washington, DC

11:00 a.m. -12:30 p.m.

TRACK 2: MORTGAGE TRACK

CLE PROGRAM: *HMDA – Privacy, Implementation, and New Developments*
Kokopelli Parlor 1

PRESENTED BY: Housing Finance

Panelists address the amendments to Regulation C effective January 1, 2018. Topics to be discussed include (1) proposed policy guidance on modifications to protect privacy, (2) implementation challenges now that the rule is in effect, (3) revised resubmission guidelines, and (4) developments now on the horizon.

Chair:

Thomas Kearney, Akerman LLP, Washington, DC

Moderator:

Thomas Kearney, Akerman LLP, Washington, DC

Speakers:

Robin Dull, Bank of America, New York, NY

Nisa Howard, Prime Lending, Dallas, TX

Fed Kamensky, Weiner Brodsky Kider PC, Washington, DC

4:00-5:00 p.m.

MEETING OF THE AMERICAN COLLEGE OF CONSUMER FINANCIAL SERVICES LAWYERS

Arrowhead

5:30-7:00 p.m.

NEW MEMBER HAPPY HOUR RECEPTION

The Cabin

GENEROUSLY SPONSORED BY: NATIONAL CREDITORS BAR ASSOCIATION (NARCA)

Tuesday, January 9, 2018

7:00 a.m.-12:00 p.m.

REGISTRATION

Kokopelli Lobby

7:00-8:30 a.m.

BREAKFAST

Kokopelli Lobby

7:30-8:30 a.m.

CLE PROGRAM: *You Didn't Know That You Were a Payday Lender, Did You? An Analysis of the CFPB's Final Small-Dollar Lending Rule*

Kokopelli Ballroom

PRESENTED BY: Task Force on Small Dollar Lending

This program will analyze the requirements of the final rule and how they differ from the proposed rule. The program will consider how the rule applies to banks, credit unions and non-depository lenders. The speakers will discuss how the scope of the rule includes loan products and lenders that are outside the traditional definition of payday loans and how the consumer loan market will change in response to the rule. Finally, the speakers will consider the likelihood of the rule surviving Congressional and judicial review.

Chair:
Arthur Rotatori, McGlinchey Stafford, Cleveland, OH

Moderator:
Arthur Rotatori, McGlinchey Stafford Cleveland, OH

Speakers:
Leah Dempsey, Credit Union National Association, Washington, DC
Jesse Silverman, LendUp, San Francisco, CA
Jonathan Thessin, American Bankers Association, Washington, DC

8:30-9:30 a.m.

CLE PROGRAM: *Everything You've Always Wanted to Know About ILC's But Were Afraid to Ask*
Kokopelli Ballroom

PRESENTED BY: Consumer Financial Services Committee

This panel will discuss (1) the history and unique characteristics of the ILC charter; (2) the benefits of the ILC charter for consumers, businesses, competition, and the economy; and (3) the future of the ILC charter, in particular its use by Fintech firms and other innovators.

Moderator:
Jerry Buckley, Buckley Sandler LLP, Washington, DC

Speakers:
Paul Allred, Utah Department of Financial Institutions, Salt Lake City, UT
Mike Nonaka, Covington & Burling LLP, Washington, DC
Leslie Rinaldi, Celtic Bank, Salt Lake City, UT

9:30-10:30 a.m.

CLE PROGRAM: *Discouragement, Redlining and Targeting: Where Fair Lending and Advertising Meet*
Kokopelli Ballroom

PRESENTED BY: Fair Access to Services/Fair Lending

In this panel, we will address one of the most unsettled aspects of fair lending: whether, and to what extent, fair lending principles are applicable to the advertising and marketing of consumer financial services. We will discuss the existing body of mortgage redlining cases and explore whether those concepts could be applied to non-bank mortgage lenders, or even to other types of financial products; and discuss more broadly what restrictions exist on advertising and marketing under fair lending laws, including whether the disparate impact theory applies in

advertising, and whether it is permissible to target advertising based on protected class status (such as marketing student loans to people in certain age groups). We will also discuss the use of online behavior and social media attributes to direct advertising for financial services, including the recent litigation against Facebook. Join us for what is sure to be a lively discussion of these issues that are highly relevant to the marketing and advertising of today's consumer financial services.

Chair:

Karen Barnes, Discover Financial Services, Riverwoods, IL

Moderator:

Christopher Willis, Ballard Spahr LLP, Atlanta, GA

Speakers:

Kenneth W. Edwards, Relman, Dane & Colfax PLLC, Washington, DC

Jean Noonan, Hudson Cook LLP, Washington, DC

10:30-11:30 a.m.

CLE PROGRAM: *Implementation of the CFPB Prepaid Account Rule and Other Recent Legal Developments Affecting Payments*
Kokopelli Ballroom

PRESENTED BY: Deposit Products & Payment Systems

This panel will discuss several recent legal developments relevant to the payments industry. These will include challenges that the industry is facing coming into compliance with the CFPB's prepaid account rule by the current April 2018 deadline, the pending changes to that rule for digital wallets, how announcements by the SEC and other agencies on initial coin offerings potentially affect the use of cryptocurrencies for payment purposes, and state initiatives to regulate digital wallets and other kinds of payment products.

Chair:

David Beam, Mayer Brown LLP, Washington, DC

Speakers:

Brian Axell, Bancorp, Minneapolis, MN

Adam Maarec, Davis Wright Tremaine, Washington, DC

Veronica McGregor, Goodwin, San Francisco, CA (invited)

Mercedes Tunstall, Pillsbury, Washington, DC

11:30 a.m. Meeting Concludes