

**2017 National Institute on Class Actions
Brochure Content**

**Celebrate Class Actions in Our Nation’s Capital with Judge Jeffrey Sutton,
Professor John Coffee, and More.**

Wednesday, October 25

5:00 p.m.–6:00 p.m.

Capital Bliss.

If the present state of class-action law has you not so present, breathe and join us for evening yoga taught by our Institute’s congressional yogi. It’s the perfect way to recess before two days of capital class-action action. (If you don’t have a mat, don’t filibuster. We have handouts.)

Instructor: Jennifer Hauge, *Yoga at Work by Jennifer*, Minneapolis, MN

Wednesday, October 26

7:30 a.m.–8:30 a.m.

DC-Facing Dog.

If you’re up for a little something more to prepare you for our class-action debate, join us for sunrise yoga. Jennifer will help prepare you for the next two days.

9:30 a.m.–9:45 a.m.

Welcome to Washington!

9:45 a.m.–10:30 a.m.

Debating the Language. Class Actions 101.

Congress poured countless hours into crafting Rule 23, so understanding it begins with examining the text. That’s what *Class Actions 101* is all about. Drew and Dan will use their time for this before yielding to . . .

Instructors: Andrew J. McGuinness, *Andrew J. McGuinness Esq.*, Ann Arbor, MI
Daniel R. Karon, *Karon LLC*, Cleveland, OH

10:30 a.m.–11:15 a.m.

Let’s Vote on It. Class Actions 201.

Having just discussed Rule 23, it’s time for us to apply it. First, we’ll hear testimony about real-life cases. We’ll then channel these cases’ facts through Rule 23 and debate whether the courts should or should not have certified them. Finally, like Congress, we’ll vote on how these cases turned out. We neither know how our debate will go nor who will ally with whom. All we know is that House of Cards has nuthin’ on us.

Instructors: Andrew J. McGuinness, *Andrew J. McGuinness Esq.*, Ann Arbor, MI
Daniel R. Karon, *Karon LLC*, Cleveland, OH

11:15 a.m.–11:30 a.m.

Lobbying Break

11:30 a.m.–12:15 a.m.

Join the Writing Revolution. Class Actions 301.

Justice Scalia noted that he revised his own work “over and over again.” Justice Thomas argues that “simplicity and clarity” requires “a lot of rounds” of “fairly intense” editing. Justices Kennedy and Ginsburg believe that lawyers are professional writers, with Justice Ginsburg adding that “that law should be a literary profession.” But who really pays attention to the technical aspects of writing? Truth is, not enough of us. Class Actions 301 will center on underappreciated writing fundamentals, like grammar, usage, syntax, punctuation, pace, theme, typography, structure, and more. If you want to be your constituents’ best writer, don’t miss it.

Instructor: Daniel R. Karon, *Karon LLC*, Cleveland, OH

12:15 a.m.–12:45 p.m.

Buffet Lunch

12:45 p.m.–1:45 p.m.

Washington, Jefferson, and Hamilton. Reviewing the Past Year’s Most Influential Class-Action Cases.

Like the congressional debate over health care, the past year offered complicated and uncertain class-action intensity. 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 properly lobby the court and win their case.

Instructors: Professor John C. Coffee, Jr., *Columbia Law School*, New York, NY
Professor Alexandra D. Lahav, *University of Connecticut Law School*, Hartford, CT

1:45 p.m.–2:45 p.m.

Build That Wall . . . or Maybe Not. H.R. 985 and the End of Class Actions?

H.R. 985, which the House of Representatives recently passed, includes reforms that will dramatically affect the future of class actions. Are this Bill’s changes necessary and appropriate? Or does the Bill trump the Rules Enabling Act, which requires participation of and review by the bench, bar, academy, and public instead of yielding the rule-making process to a partisan Congress? Our talk show will examine these themes and more in a way that Anderson Cooper would envy.

Host: Daniel R. Karon, *Karon LLC*, Cleveland, OH

Guests: Judge Robert M. Dow Jr., *United States District Court for the Northern District of Illinois*, Chicago, IL
Elizabeth J. Cabraser, *Lieff Cabraser Heimann & Bernstein, LLP*, San Francisco, CA
Harold H. Kim, *U.S. Chamber of Commerce Institute for Legal Reform*, Washington, D.C.

2:45 p.m.–3:00 p.m.

Fundraising Break

3:00 p.m.–4:00 p.m.

Tapping the Collective Consciousness. How Americans Feel About Class Actions and Why.

A lot of people think class actions don't make America so great. But a lot of people believe class actions are hugely important. Whether considering H.R. 985, the fate of the CFPB, or whichever class-action cases next lands in the Supreme Court for a 5–4 decision, class actions and the policies, purposes, and politics behind them are as divisive as the healthcare debate. Our program will do its best to enlighten (and, we hope, encourage) you as together we examine how to best politick the next three years as a class-action community.

Host: Melissa H. Maxman, *Cohen & Gresser LLP*, Washington, DC

Guests: Representative Jamie Raskin (D-DC), Washington DC

Additional speakers TBD

4:00 p.m.–5:00 p.m.

The Conservative Case for Class Actions—A Monumental Debate.

We know how the liberals feel about class actions, but is there a case for conservatives embracing them? As we learned during the election, it's awfully tough to convince people that they're wrong. But what about suggesting that conservatives' existing beliefs embrace a pro-class-action viewpoint? After all, class actions offer concepts that conservatives tend to embrace, like market solutions, private-sector enforcement, and judicial efficiency . . . or do they? Our examination of whether conservatives can make a case for class actions will make the presidential debates look like in walk in President's Park.

Host: Fred Burnside, *Davis Wright Tremaine LLP*, Seattle, WA

Guests: The Honorable Jeffrey Sutton, *United States Court of Appeals for the Sixth Circuit*, Cincinnati, OH

Professor Brian Fitzpatrick, *Vanderbilt University Law School*, Nashville, TN

Ted Frank, *Competitive Enterprise Institute & Center for Class Action Fairness*, Washington D.C.

5:00 p.m.–6:30 p.m.

Libation Without Representation at Urbana

After a long day politicking class actions, rechannel your attention and join us for a cocktail party at the Palomar's stylish Urbana. In a casual atmosphere, you can network, meet other Institute guests, and get to know our faculty. This relaxed event in the heart of the capitol is one that even Congress would want to attend.

Friday, October 27

10:00 a.m.–11:00 a.m.

Yea! or Nay! Opting Out—Whether and When?

Members of Congress tax themselves over whether to support a piece of legislation. If they should, why? If they shouldn't, why not? The same is true of class members when considering whether to stay in certified class or opt out. What considerations control this choice? Does timing matter? Does the defendant's name matter? In addition to optics and politics, what substantive or emotional concerns drive this choice? Depending on the case, opting out can be a monumental decision. Learn all about it from people who have lobbied for and against it.

Host: Vincent J. Esades, *Heins Mills & Olson, PLC*, Minneapolis, MN
Guests: Jason Zweig, *Hagens Berman Sobol Shapiro LLP*, Chicago, IL
Deborah A. Elman *Grant & Eisenhofer P.A.*, New York, NY
Barbara J. Hart, *Lowey Dannenberg, P.C.*, White Plains, New York

11:00 a.m.–12:15 a.m.

You've Red an Arbitration Clause and Class-Action Waiver, but Need You Feel Blue? The State of the Union Between Arbitration and Litigation.

Arbitration clauses with class-action bans defeat class actions, right? Not so fast. Turns out *Conception* wasn't the final word. Consumer advocates, academics, and courts have differed on *Conception's* directive. We will examine the newest legal and policy bases surrounding arbitration clauses and class-action bans, from *D. R. Horton's* enforceability issue to the CFPB's new regulations. Maybe our debate will spark undecided lawyers to file that nasty case that they rejected earlier. Or maybe it will offer methods for making that arbitration clause and class-action ban tremendous. Grab a ringside seat to find out.

Host: Andrew J. McGuinness, *Andrew J. McGuinness, Esq.*, Ann Arbor, MI
Guests: Karla Gilbride, *Public Justice*, Washington, D.C.
Charles B. Casper, *Montgomery McCracken Walker & Rhoads LLP*, Philadelphia, PA
Additional speakers TBD.

12:15 p.m.–1:45 p.m.

Lunch at Urbana

1:45 p.m.–1:50 p.m.

Declarations and Preview of Next Year

1:50 p.m.–2:50 p.m.

Inside the Beltway. Class-Action Insights from In-House Counsel.

Looking for a deep throat? There's nothing better than getting a briefing from someone on the inside. Lawyers from both sides of the aisle will want to hear our in-house experts' remarks on how they approach and manage class actions in today's partisan litigation climate. Our program's members will discuss such topics as how they select their litigation strategies, how recent legislative developments have affected their decision making, and how the increase in class-action trials has influenced their defense strategies. Never mind your party affiliation, this is one hearing you won't want to see held in private.

Host: Sabrina H. Strong, *O'Melveny & Myers, LLP*, Los Angeles, CA
Guests: Douglas Besman, *Nestle*, Solon, OH
Joseph Milcoff, *FedEx Ground*, Moon Township, Pennsylvania
Courtney Ozer, *Unilever United States, Inc.*, Englewood Cliffs, New Jersey
Karen Caraher Quirk, *Blue Cross Blue Shield of Illinois, Montana, New Mexico, Oklahoma, and Texas*, Chicago, IL

2:50 p.m.–3:50 p.m.

The Times They Are a-Changin'. The Role of Administrative Agencies and Private Counsel in the Trump Era.

Bob Dylan's words could hardly ring truer. Since President Trump's election, the CFPB has come under increasing fire, and new leadership has worked its way into multiple regulatory agencies with the goal of minimizing restrictions on business. So what do these changes mean for these agencies and for us? Will administrative curtailment create opportunities for private lawyers, spawn an ungoverned void, or produce something in between? And which election is best for the American people?

Host: E. Michelle Drake, *Berger & Montague, P.C.*, Minneapolis, MN
Guests: Professor Chris Peterson, *University of Utah College of Law*, Salt Lake City, UT
Katrina Christakis, *Pilgrim Christakis, LLP*, Chicago, IL
Archis A. Parasharami, *Mayer Brown, LLP*, Washington, DC
F. Paul Bland, *Public Justice*, Washington, DC
Additional Speakers TBD

3:50 p.m.

Recess.

The Institute will conclude with some inspiring closing remarks and the opportunity to connect with each other and our Institute faculty. Then, we're in recess till next year!