22nd Annual National Institute on Class Actions
It’s My Kinda Program in My Kinda Town

October 18–19, 2018
W Chicago City Center
172 West Adams Street
Chicago, IL

visit ambar.org/cac2018 to register
Program Description:
Attend the most important class-action program in the nation and you will:
• Get an annual summary of the most important developments in case law from Professor Coffee of Columbia Law School
• Gain practical insights on class action cases from prominent judges
• Learn trial techniques and best practices from the leading in-house counsel, defense counsel, and plaintiffs’ attorneys in the field

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Milberg Tadler Phillips Grossman LLP  
New York, NY

Aviva O. Will  
Burford Capital  
New York, NY

Planning Committee
### Agenda

**Day 1: Thursday, October 18**

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<th>Time</th>
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<tr>
<td>9:45 a.m. – 10:00 a.m.</td>
<td>“Welcome to the Windy City!”</td>
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<tr>
<td>10:00 a.m. – 11:00 a.m.</td>
<td><strong>“Second to None” Class Actions 101</strong>&lt;br&gt;Instructors: Andrew J. McGuinness, Daniel R. Karon&lt;br&gt;Drew and Dan will begin the set by sketching Rule 23’s elements. Then, they'll improv real-life cases, channeling the facts through Rule 23. Finally, they'll raise the house lights, and our audience will discuss and debate whether the courts should or should not have certified certain cases. Though this program may not be ready for prime time, it's guaranteed to inform and entertain.</td>
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<td>11:00 a.m. – 12:00 p.m.</td>
<td>“Write to the Point” Class Actions 201&lt;br&gt;Instructor: Daniel R. Karon&lt;br&gt;Judge Posner believes that “the time spent in transforming an unwieldy document into a lean, persuasive and grammatically correct brief can come back to the client with an appellate victory.” Judge Easterbrook recommends that lawyers stop reading other lawyers (whom he says as writers are “mostly bad”) and start reading Hemingway, Faulkner, and Saul Bellow for their different styles, and <em>The Atlantic</em> and <em>The New Yorker</em>, “where people write intelligently about important issues in short compass, using real English sentences.” Class Actions 201 will center on necessary but underappreciated writing fundamentals, including grammar, usage, syntax, punctuation, pace, theme, typography, structure, and more. Join us and master the craft of legal writing.</td>
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<td>12:00 p.m. – 1:15 p.m.</td>
<td>Explore the Loop for Lunch</td>
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<td>1:15 p.m. – 2:15 p.m.</td>
<td>“A Process that Works—Taking Class-Action Depositions the Right Way” Class Actions 301&lt;br&gt;Instructor: Jason S. Hartley&lt;br&gt;Just as deep dish differs from thin crust, class-action depositions differ from depositions taken in traditional bilateral litigation. Special themes and goals apply that counsel too often overlook or don't appreciate. This hands-on practicum will propose an architecture for class-action depositions that Daniel Burnham would envy. By preparing early and often, you'll become the best deposition-taker in your firm.</td>
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<td>2:15 p.m. – 3:15 p.m.</td>
<td>“They Weighed in Early.” A Lesson on the Changes to Rule 23 from the Rule 23 Subcommittee of the Advisory Committee on Civil Rules&lt;br&gt;Faculty: Andrew J. McGuinness, Honorable Robert M. Dow, Jr., Professor Robert H. Klonoff, Elizabeth J. Cabraser, John M. Barkett&lt;br&gt;Chicago has a rich tradition of encouraging inclusion in the political process. With this principle in mind, the Rule 23 Subcommittee’s changes to Rule 23 – changes that will fundamentally affect our practice – go into effect on December 1. The Subcommittee will join us to explain these exciting and important changes that all of us need to know.</td>
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<td>3:15 p.m. – 3:30 p.m.</td>
<td>Intermission</td>
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<td>3:30 p.m. – 4:30 p.m.</td>
<td>“Navigating Menacing Waters” Whether Injunctive Class Actions Are a Useful Way to Avoid Class-Certification Hurdles and Avoid Arbitration&lt;br&gt;Faculty: Gregory P. Abrams, Vincent J. Esades, Kelly M. Dermody, Megan E. Jones, Robert G. Eisler&lt;br&gt;Committed to making Chicago our nation’s midwestern hub, in 1887 the Illinois General Assembly decided to reverse the flow of the Chicago River. How did they do it? They were innovative. As arbitration class bans and increasingly stringent requirements to sustain damage classes proliferate, injunctive-relief class actions may provide plaintiffs an innovative alternative strategy. We'll take a deep dive into the requirements for injunctive classes, strategies for avoiding arbitration clauses, and other murky issues. Because in today's tumultuous class-action waters, if don't know your options, your opponent will surely lower the boom.</td>
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### Day 2: Friday, October 19

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| **9:00 a.m.–10:00 a.m.** | **“Big Price Tags, Big Issues” The Proliferation of Third-Party Financing and Its Challenges**  
Faculty: Melissa H. Maxman, Professor Anthony J. Sebok, Elizabeth M. Chiarello, Aviva O. Will, Eric Blinderman  
Carl Sandburg declared Chicago the “City of Big Shoulders”—hometown to hard-working people with that can-do attitude. But when it comes to class actions, our judicial and legislative branches often tell us what we can’t do. This concern applies to plaintiffs’ and defense lawyers. One area of can’t-do controversy involves third-party financing, an industry that has exploded as a financing alternative for class actions. But how does it differ from traditional law firm or client funding? What ethical concerns does it raise? Should it be regulated? If so, under what circumstances and by whom? And should courts require parties to disclose it? We’ll unpack whether the propagation of third-party financing will require “building, breaking, and rebuilding” that no-one could have imagined. |
| **10:00 a.m.–11:00 a.m.** | **“Holy Cow! This Year the Courts Said What?!?” A Mighty Swing at the Year in Class-Action Jurisprudence**  
Instructors: Professor John C. Coffee, Jr., Professor Alexandra Lahav  
As usual, this past year involved plenty of class-action action. Back by popular demand, Professors Coffee and Lahav will clean up this year’s important class-action developments—developments that you’ll need to understand if you want to serve your class-action clients properly and stay atop your class-action game. |
| **11:00 a.m.–11:15 a.m.** | **Intermission** |
| **11:15 a.m.–12:15 p.m.** | **“Never a Day Off” Understanding and Managing Economic Risks for Lawyers on Both Sides of the v.**  
Faculty: Fred B. Burnside, Jay Edelson, Cynthia Randall, Steven M. Rummage  
Far from voodoo economics, securing leadership is part science and part art. If defense lawyers think hourly, hourly, hourly billing still exists—it’s over, go home. Clients demand competing bids, with capped fees per case phase, rollover agreements, and shared-risk proposals tied to various success measures. Overbid, you lose the work; underbid you lose your shirt. Defense lawyers must now think like plaintiffs’ lawyers. And how do plaintiffs’ lawyers protect their hard work and novel theories from other plaintiffs’ lawyers? How do they navigate case management, work delegation, and cost-effective representation when cases can last years or decades? Though everything is peaceful from 1,353 feet, we’ll examine strategies necessary for landing the case, minimizing risk, and complying with ethics requirements. This practice moves pretty fast. If you don’t stop to understand your options, you could miss it. |
| **12:15 p.m.–1:30 p.m.** | **Lunch and Mingle** |
| **1:30 p.m.–1:45 p.m.** | **Announcements and Aha Moments** |
# Agenda

## 1:45 p.m.–2:45 p.m.

### “A Ticket into the Friendly Confines” Class-Action Insights from In-House Counsel.

**Faculty:** Sabrina H. Strong, Jonathan Griffith, Ken K. Patel, Deborah M. Rasin

Never mind deep dish. Are you looking for a deep throat? There’s nothing better than getting the skinny from someone on the inside. Lawyers from the north and south sides will want to hear our in-house experts’ remarks on how they approach and manage class actions. Our in-house faculty 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. This discussion guarantees to be a grand slam.

## 2:45 p.m.–3:45 p.m.

### Bristol-Myers Squibb Co. v. Superior Court of California: “Is it a Bear or a Cub?”

**Faculty:** Donald R. Frederico, Professor Robin Effron, Leslie A. Brueckner, Christopher M. Murphy

The Supreme Court’s *Bristol-Myers Squibb* decision has forced federal courts to tackle personal jurisdiction in class actions in a whole new way—even though *BMS* was neither a class action nor was it filed in federal court. So just how far does *BMS* reach, and what are its practical implications? Does it help defendants or simply create extra work and uncertainty for them? Can plaintiffs leverage this supposed extra work and uncertainty, or are plaintiffs the ones facing sudden death? Whether *BMS* is a bear or a cub—or perhaps a bull—depends on whom you ask. We’ll ask together.

## 3:45 p.m.–4:00 p.m.

### Seventh-Inning Stretch

## 4:00 p.m.–5:00 p.m.

### “Who Needs Second City?” Class Damages from A(kroyd) to (Lovit)Z: A Three-Act Play

**Faculty:** Jason Lichtman, Honorable John Z. Lee, Adam L. Hoeflich

We all know that in class-actions lawsuits, damages and their enormity (or not) steal the show. Together we will examine how plaintiffs’ and defense lawyers consult with experts to analyze class damages with an eye toward obtaining or scuttling class certification. We invite you to pack the house for our three-act play that assembles these important pieces of the class-certification puzzle.

## 5:00 p.m.

### “Planes, Trains, and Automobiles” We’re Adjourned!
Step 1: Registration Rates

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Step 2: Section Membership

- Section of Litigation - $60

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Step 4: Your Total Due Amount

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ABA Section of Litigation - $60 (from Step 2) 4B $ *______________

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Attire
Business casual attire is appropriate for all activities.

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

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