INTRODUCTION FROM THE INSTITUTE CHAIR

The class-action world is changing more quickly than ever. To keep up, you’ll want to join us at this year’s National Institute on Class Actions. We’ll feature the most important content delivered by the most qualified instructors around. Don’t miss it!

Daniel R. Karon
Karon LLC
Cleveland, OH

KEY SPEAKERS

Hon. Jane Branstetter Stranch
Hon. William A. Fletcher
Prof. John C. Coffee Jr.
Prof. Alexandra Lahav
Hon. Robert M. Dow Jr.
Hon. R. David Proctor
Hon. Shira A. Scheindlin
Hon. Jane Branstetter Stranch

PAST PARTICIPANTS HAVE SAID . . .

“Liked the lively debate and diversity of panelists.”

“Faculty very interesting; attendees interesting, too. Very thought provoking.”

“Excellent content, format and very accommodating schedule.”

“Fantastic panels of judges and important scholars . . . more insightful and useful than all lawyer presentations.”

“Great annual review/update. More practical advice this year, as opposed to theoretical.”

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Chicago, IL

*Faculty subject to change without notice.

Planning Committee
DAY ONE | THURSDAY, OCTOBER 17TH

9:15 AM – 9:30 AM    WELCOME TO SMASHVILLE!
HOST:               Daniel R. Karon, Karon LLC, Cleveland, OH

9:30 AM – 10:45 AM   COLLECTIVE ACTIONS ON A WORLD STAGE—A GLOBAL MUSICAL

Due to social, cultural, and political factors, class actions don’t play nearly as well abroad as they do here. But as the world becomes more and more harmonized, might other markets benefit from class or collective actions? If so, how might these actions, look, feel, and sound?

SPEAKERS: Melissa H. Maxman, Cohen & Gresser LLP, Washington, D.C.
Prof. Mathias W. Reimann, University of Michigan Law School, Ann Arbor, MI
Davit Akman, Borden Ladner Gervais, LLP, Toronto, CA
Nathalie Lozano-Blanco, Lozano-Blanco & Asociados, Bogota, Columbia
Jingjing He, International Economic Law Research Office of the Institute of International Law of the Chinese Academy of Social Sciences, Beijing, China

10:45 AM – 11:45 AM  “STOP STEALING THE MICROPHONE!” AMPED-UP JUDICIAL SCRUTINY OF CLASS-ACTION SETTLEMENTS

Settling a class action can be as challenging as performing a rock show. While courts used to largely rubber-stamp settlements, judicial scrutiny has steadily increased since Congress passed CAFA. At first, only coupon settlements attracted judges’ attention. Next, objectors started getting more airplay. Now, judges have begun questioning the fairness of settlements and imposing guidelines and checklists. Have the courts have gone too far, and what implications does their involvement have on a class-action lawsuit’s finale.

SPEAKERS: E. Michelle Drake, Berger Montague, Minneapolis, MN
Hon. Shira A. Scheindlin (Ret.), Stroock & Stroock & Lavan LLP, New York, NY
Beth Terrell, Terrell Marshall Law Group PLLC, Seattle, WA
Shannon Wheatman, Kinsella Media, Washington, D.C.
Gregory P. Stone, Munger Tolles & Olson LLP, Los Angeles, CA

11:45 AM – 1:15 PM   EXPLORE BROADWAY FOR LUNCH

1:15 PM – 2:15 PM    LET’S MAKE BEAUTIFUL MUSIC TOGETHER. CLASS ACTIONS 101

We’ll begin the set by crooning through Rule 23’s elements. Then, we’ll improv real-life cases, channeling the facts through the rule. Finally, we’ll raise the house lights, so our audience may discuss and debate whether the courts should or should not have certified certain cases. This sing-along program is guaranteed to inform and entertain.

SPEAKERS: Andrew J. McGuinness, Andrew J. McGuinness, Esq., Ann Arbor, MI
Daniel R. Karon, Karon LLC, Cleveland, OH
HITTING THE HIGH NOTES. CLASS ACTIONS 201

Judge Posner believes “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 The Atlantic and The New Yorker, “where people write intelligently about important issues in short compass, using real English sentences.” Class Actions 201 will center on essentials like these and will make your legal writing sing.

SPEAKER: Daniel R. Karon, Karon LLC, Cleveland, OH

STAGING A GREAT PERFORMANCE. CLASS ACTIONS 301

Just as rockabilly differs from bluegrass, class-action depositions differ from depositions taken in traditional bilateral litigation. Special refrains and goals apply that counsel too often overlook or don’t measure. This hands-on practicum will propose a motif for class-action depositions that Brad Paisley would envy. By rehearsing these rules, you’ll become the best deposition-taker in your firm.

SPEAKER: Jason S. Hartley, Hartley LLP, San Diego, CA

“MARCHING TO THEIR OWN DRUMBEAT.” WHAT LAWYERS DON’T UNDERSTAND ABOUT NOTICE AND CLAIMS ADMINISTRATION

While most class-action lawyers consider themselves the leader of the band, few have expertise with notice and claims administration. Our experts will enlighten attorneys to new and complex notice rules. They will tackle settlement-administration issues, including factors that contribute to claims filing, considerations for preparing allocation plans, new electronic-payment options, take rates, and the effect that all these things have on final approval and attorneys’ fees. Our experts’ mentoring will launch your settlements to the top of the chart.

SPEAKERS: Vincent J. Esades, Heins Mills & Olson, P.L.C., Minneapolis MN
Shannon Wheatman, Kinsella Media, Washington, D.C.
Carla Peak, KCC, Philadelphia, PA
Jennifer Keough, JND Legal Administration, Seattle, WA
Lauren McGeever, Epiq, New York, NY
Steven Weisbrot, Angelion Group, Philadelphia, PA

TIME FOR SOME SOUTHERN HOSPITALITY—INSTITUTE COCKTAIL PARTY
DAY TWO | FRIDAY, OCTOBER 18TH

9:00 AM – 10:00 AM  “MUSIC TO MY EARS.” WHAT EVIDENCE RESONATES AT CLASS CERTIFICATION?

According to the Ninth Circuit, class-certification evidence needn’t be admissible—it’s an open mic. Might this be the beginning of a circuit split, or is this ruling a one-hit wonder? After demo’ing this issue’s A- and B-sides, we’ll perform a mock oral argument for Judge Stranch. Who will end up wowing the crowd? You’ll have to attend to find out.

SPEAKERS: Fred B. Burnside, Davis Wright Tremaine LLP, Seattle, WA
          Hon. Jane Branstetter Stranch, Sixth Circuit Court of Appeals, Nashville, TN
          Prof. Elizabeth Chamblee Burch, University of Georgia Law School, Athens, GA
          Christopher Murphy, McDermott Will & Emery LLP, Chicago, IL
          Deepak Gupta, Gupta Wessler PLLC, Washington, D.C.

10:00 AM – 11:00 AM  HOW BIG IS YOUR AUDIENCE? CRESCENDOS AND DIMINUENDOS IN THE CLASS-ACTION WORLD

From Dukes to Concepcion to Spokeo, the Supreme Court is dramatically shaping class-action law. Between heightening certification standards, class-action bans, and no-injury jurisprudence, the class-action drum beats a lot less loudly than it used to. Just what do these restrictions mean to our collective viability as class-action lawyers? Will class actions continue to fill stadiums, will they be relegated to smaller venues, or could they simply fade out?

SPEAKERS: Donald R. Frederico, Pierce Atwood LLP, Boston, MA
          Prof. J. Maria Glover, Georgetown University Law Center, Washington, D.C.
          Arthur H. Bryant, Bailey & Glasser LLP, Oakland, CA
          Gregory C. Cook, Balch & Bingham LLP, Birmingham, AL
          Mark P. Chalos, Lieff Cabraser Heimann & Bernstein, LLP, Nashville, TN

11:00 AM – 11:15 AM  INTERLUDE

11:15 AM – 12:15 PM  “TOP OF THE CHARTS.” POTENTIAL MDL RULE CHANGES AND THEIR EFFECT ON YOUR PRACTICE

Country-pop. Country-soul. Even country-rap. Nashville is known for mash-ups. The Judicial Conference’s Civil Rules Committee’s MDL Subcommittee is entertaining a mashup of its own—modifications to the civil rules that may apply to multidistrict class-actions and mass-tort MDLs. But will changes driven by perceived problems with nationwide personal-injury actions impact consumer, antitrust, civil-rights, employment, and securities class actions too? Considering the central role of MDLs in class-action practice, this glimpse at the Billboard of possible rules changes is a hot topic!

SPEAKERS: Andrew J. McGuinness, Andrew J. McGuinness, Esq., Ann Arbor, MI
          Hon. Robert M. Dow, Jr., United States District Court for the Northern District of Illinois, Chicago, IL
          Hon. R. David Proctor, United States District Court for the Northern District of Alabama, Atlanta, GA
          Prof. Richard L. Marcus, University of California Hastings College of the Law, San Francisco, CA
          Joseph M. Sellers, Cohen Milstein Sellers & Toll, PLLC, Washington, DC
          Helen E. Witt, Kirkland & Ellis LLP, Chicago, IL
12:15 PM – 1:30 PM  LUNCH AND MINGLE

1:30 PM – 1:45 PM  LINER NOTES

1:45 PM – 2:45 PM  THE ROCK ‘N’ ROLL YEAR IN CLASS-ACTION JURISPRUDENCE

This past year involved plenty of class-action fireworks. Professors Coffee and Lahav will describe the year’s important class-action developments—developments you need to understand if you want your clients to request your encore performance.

SPEAKERS:  Prof. John C. Coffee, Jr., Columbia Law School, New York, NY
           Prof. Alexandra Lahav, University of Connecticut Law School, Hartford, CT

2:45 PM – 3:45 PM  “DUELING PIANOS.” A DEBATE ON THE CONTINUING NEED FOR CLASS ACTIONS

Do class actions have a deterrent effect on wrongful business practices? Is it preferable to have the private bar or regulators police corporate misconduct? Do class actions create more problems than they solve? Professor Fitzpatrick will discuss his new book, “The Conservative Case for Class Actions,” while Professor Johnston will offer his research-based views on the appropriate place for class actions in society. You’ll definitely want to hear this battle of the bands.

SPEAKERS:  Adam E. Polk, Girard Sharp, San Francisco, CA
           Prof. Brian T. Fitzpatrick, Vanderbilt University Law School, Nashville, TN
           Prof. Jason S. Johnston, University of Virginia School of Law, Charlottesville, VA

3:45 PM – 4:00 PM  INTERMEZZO

4:00 PM – 5:00 PM  “CONNECTING WITH THE CROWD.” COUNSEL’S DISCUSSIONS (OR NOT) WITH ABSENT CLASS MEMBERS

“How’s everybody doing out there!” Just because you control the class-action stage—for either side—doesn’t mean you can talk to absent class members. Or does it? Courts’ authority to control attorneys’ communications with absent class members derives from Rule 23 and the ethics rules. Don’t miss this practical approach to minding these critically important requirements when scripting sometimes unavoidable communications.

SPEAKERS:  Lindsay D. Breedlove, Pepper Hamilton LLP, Philadelphia, PA
           Hon. William A. Fletcher, United States Court of Appeals for the Ninth Circuit, San Francisco, CA
           Prof. Adam Steinman, University of Alabama School of Law, Tuscaloosa, AL
           Aaron D. Van Oort, Faegre Baker Daniels LLP, Minneapolis, MN
           Jahan C. Sagafi, Outten & Golden, San Francisco, CA

5:00 PM  GOODNIGHT NASHVILLE! SEE YOU AGAIN SOON!

MCLE

The ABA will seek 12.25 CLE credit hours in 60-minute hour states, and 14.70 credit of CLE credit for this program 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/cac2019 for program CLE details or visit www.americanbar.org/mcle for general information on CLE at the ABA.

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MEETING INFORMATION

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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.

HOTEL/TRAVEL

HOTEL INFORMATION:

Omni Nashville Hotel | 250 Fifth Avenue South | Nashville, TN 37203

Reservations can be made by calling the Omni directly at 615.782.5300 or 800.843.6664 or by reserving online. Refer to the ABA National Institute on Class Actions to obtain the group rate of $299/night.

***The Omni Nashville is sold out on Wednesday, October 16 and Friday, October 18. A limited number of rooms are still available on Thursday, October 17. For a list of overflow hotels please visit: https://www.americanbar.org/events-cle/abacle/attendee-pages/ce1910cac-hotel/

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