NATIONAL INSTITUTE ON

White Collar Crime

MARCH 11-13, 2020
MARRIOTT MARQUIS MARINA | SAN DIEGO, CA

Visit ambar.org/wcc2020 to register
DESCRIPTION OF PROCEEDINGS

The 2020 White Collar Crime National Institute will take place from Wednesday, March 11 to Friday, March 13, 2020, in San Diego, California. On March 11, after the luncheon break, we will once again have a panel devoted to corporate general counsel, followed by a discussion with the heads of enforcement of the Department of Justice Criminal Division, the Securities and Exchange Commission, and the Commodities Futures Trading Commission.

In addition to those two plenary sessions, we will have three other such panels, including the much acclaimed panel of United States District and Circuit Judges, led this year by Seventh Circuit Judge Amy St. Eve, a panel on the new trend of enhanced enforcement efforts in traditionally self-regulated sectors, and lastly, on Friday morning, distinguished speakers exploring the ethical issues and challenges that confront prosecutors, defense counsel, and legal commentators during high profile investigations.

We anticipate our keynote speakers will be Harvard Business School Professor and acclaimed author Eugene F. Soltes, who has explored the subject of high profile white collar investigations, and another speaker to be announced.

Our average attendance each of the past three decades has exceeded 1,250 at this nationally recognized annual gathering of the national white collar bar. The Institute is proud to continue to present outstanding panelists who deal with some of the most significant and immediate issues of our time. This year we will continue to have the popular regional panels as well as the many discussions and analyses of recent developments in the various substantive areas that comprise white collar law. In light of the ever-expanding globalization of the practice, several of the panels will tackle international issues faced by practitioners, including the complexities of foreign laws, international treaties, and investigative practices that have altered the way of approaching global inquiries. A group of leading lawyers from Canada, England, France, Germany, Italy, and Brazil will discuss important recent developments in each of those countries that should be of interest to US lawyers.

Since its establishment in 1987, the Institute has been attended by leading federal and state judges and prosecutors, law enforcement officials, defense attorneys, corporate in-house counsel, and members of the academic community. The faculty regularly includes some of the top members of the white collar bar in the United States and abroad. Among the audience are nationally-renowned lawyers, as well as many who are beginning to concentrate in the white collar area. Attendees have consistently given the Institute high ratings for the exceptional quality of its publication, the panelists’ presentations, the valuable updates on new developments and strategies, as well as the rare opportunity to meet colleagues in this field, renew acquaintances, and exchange ideas.

Once again, we will have three panels that will qualify for ethics CLE credit and, for the first time, two panels that will satisfy the “skills” requirements instituted by several state bars especially for new lawyers. The Institute will have excellent representation from the judiciary and the corporate sector, including Chief Judges Denise Page Hood and Larry Alan Burns, United States District Judges Paul D. Borman, Charles R. Breyer, Brian M. Cogan, Sara L. Ellis, and Amit P. Mehta, and United States Circuit Judge Amy J. St. Eve. The general counsel of Anchorage, Cognizant, Inc., Fox Corporation, GE Healthcare, Merck & Co., Inc., Polaris Industries Incorporated, TPG Global, LLC, and Walmart Inc. will be participating, as well as senior members of the legal and compliance groups of the Fédération Internationale de Football Association (FIFA), Google, Salesforce, Southern California Gas Company, and Western Union, among others. The Institute will also include senior members of the Department of Justice and distinguished members of academia.

ABA CLE National Institutes bring you face-to-face with nationally recognized experts on substantive topics—while fulfilling most, if not all, of your annual CLE requirements.
PROGRAM FOCUS

• A plenary panel of leading members of the federal judiciary
• General counsel of major corporations discussing their approaches to white collar investigations
• Special session with the heads of enforcement at the DOJ, SEC, and CFTC
• Recent enhanced enforcement efforts in traditionally self-regulated sectors, including sports and academia
• A panel providing first-hand accounts from white collar defendants and in-house lawyers for companies that faced criminal charges
• Ethics—Ethical issues and challenges raised by the conduct of prosecutors, defense counsel, and legal observers during high profile investigations
• Ethics—Corporate investigations and the changing landscape created by United States v. Connolly
• Ethics—Ethical and practical considerations when one’s client is under investigation
• Crisis management during internal investigations
• An international panel exploring how to navigate the pitfalls of cross border inquiries
• Two Skills Panels on trying white collar cases
• The increasing criminal enforcement of the Foreign Agent Registration Act (“FARA”)
• Defending white collar clients before congressional committees
• Recent foreign legal developments of interest to US lawyers
• An international panel on handling extradition and mutual assistance treaties requests
• Recent developments in sentencing, including practical advice on the First Step Act Risk and Needs Assessment System that recently went into effect
• Responding to the new DOJ and SEC compliance, remediation, and cooperation guidelines
• Four panels discussing recent developments in the Northeast, South, Midwest-Central, and Western regions

SUBSTANTIVE TOPICS

• Recent developments and new trends in FCPA enforcement
• Securities enforcement in 2020 and beyond
• Enforcement trends in health care fraud and abuse cases
• National security and cybercrime
• Developments in antitrust enforcement
• Environmental prosecutions in a global world
• Important developments in tax enforcement
• Recent developments in anti-money laundering and asset forfeiture efforts
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<th>Early-Bird Rate</th>
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The ABA reserves the right to correct all typographical errors. Fees do not include travel or lodging.

The ABA White Collar Crime National Institute is pleased to be partnering with the Women’s White Collar Defense Association (WWCDA) and is offering a 10% discount on registration for the ABA White Collar Crime National Institute when WWCDA members also register for the WWCDA Annual Attorney Meeting March 10-11, 2020, in San Diego at the Hotel del Coronado.

[www.ambar.org/wcc2020](http://www.ambar.org/wcc2020) to register

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The ABA will seek 14.25 hours of CLE general credit in 60-minute states, and 17.10 hours of CLE general credit for this program in 50-minute states, including 5.75 hours of CLE ethics credit in 60-minute states and 6.90 hours of CLE ethics credit in 50-minute states.

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<th>Title/Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raymond Banoun</td>
<td>Chair of the Institute Banoun Law PLLC Washington, DC</td>
</tr>
<tr>
<td>Caroline Judge Mehta</td>
<td>Co-Chair of the Institute Zuckerman Spaeder LLP Washington, DC</td>
</tr>
<tr>
<td>Zainab N. Ahmad</td>
<td>Gibson, Dunn &amp; Crutcher LLP New York, NY</td>
</tr>
<tr>
<td>Emily Allen</td>
<td>Chief, Major Frauds and Public Corruption Section Assistant US Attorney Southern District of California San Diego, CA</td>
</tr>
<tr>
<td>Antonia M. Apps</td>
<td>Milbank LLP New York, NY</td>
</tr>
<tr>
<td>Antoinette T. Bacon</td>
<td>Associate Deputy Attorney General US Department of Justice Washington, DC</td>
</tr>
<tr>
<td>Erica Williamson Barnes</td>
<td>Maynard Cooper &amp; Gale LLP Birmingham, AL</td>
</tr>
<tr>
<td>Prof. Lara Bazelon</td>
<td>Associate Professor of Law &amp; Director of the Criminal Juvenile Justice Clinic University of San Francisco School of Law San Francisco, CA</td>
</tr>
<tr>
<td>Prof. Sara Sun Beale</td>
<td>Charles L. B. Lowndes Professor of Law Duke University School of Law Durham, NC</td>
</tr>
<tr>
<td>Joseph Beemsterboer</td>
<td>Senior Deputy Chief Fraud Section, Criminal Division US Department of Justice Washington, DC</td>
</tr>
<tr>
<td>Koren L. Bell</td>
<td>Larson O'Brien LLP Los Angeles, CA</td>
</tr>
<tr>
<td>Jennifer Z. Belveal</td>
<td>Foley &amp; Lardner LLP Detroit, MI</td>
</tr>
<tr>
<td>Bradford A. Berenson</td>
<td>General Counsel TPG Global, LLC San Francisco, CA</td>
</tr>
<tr>
<td>Robert Bogucki</td>
<td>New York, NY</td>
</tr>
<tr>
<td>Hon. Paul D. Borman</td>
<td>United States District Judge Eastern District of Michigan Detroit, MI</td>
</tr>
<tr>
<td>Susan K. Bozorgi</td>
<td>Bozorgi Law PLLC Miami, FL</td>
</tr>
<tr>
<td>Rachel Brand</td>
<td>Executive Vice President of Global Governance, Chief Legal Officer and Corporate Secretary Walmart Inc Bentonville, AR</td>
</tr>
<tr>
<td>Hon. Robert S. Brewer, Jr.</td>
<td>United States Attorney Southern District of California San Diego, CA</td>
</tr>
<tr>
<td>Hon. Charles R. Breyer</td>
<td>United States District Judge Northern District of California San Francisco, CA</td>
</tr>
<tr>
<td>Ellen C. Brotman</td>
<td>Brotman Law Philadelphia, PA</td>
</tr>
<tr>
<td>Hon. Larry Alan Burns</td>
<td>Chief United States District Judge Southern District of California San Diego, CA</td>
</tr>
<tr>
<td>Ralph J. Caccia</td>
<td>Wiley Rein LLP Washington, DC</td>
</tr>
<tr>
<td>Yasmin Cader</td>
<td>Cader Adams LLP Los Angeles, CA</td>
</tr>
<tr>
<td>Charles E. Cain</td>
<td>Chief, FCPA Unit Enforcement Division Securities &amp; Exchange Commission Washington, DC</td>
</tr>
<tr>
<td>Leslie R. Caldwell</td>
<td>Latham &amp; Watkins LLP San Francisco, CA</td>
</tr>
<tr>
<td>Angelo J. Calfo</td>
<td>Calfo Eakes &amp; Ostovsky PLLC Seattle, WA</td>
</tr>
<tr>
<td>Christopher Cestaro</td>
<td>Chief, FCPA Unit, Fraud Section, Criminal Division US Department of Justice Washington, DC</td>
</tr>
<tr>
<td>Katie Biber Chen</td>
<td>General Counsel Anchorage San Francisco, CA</td>
</tr>
<tr>
<td>Pamela R. Chepiga</td>
<td>Allen &amp; Overy LLP New York, NY</td>
</tr>
<tr>
<td>Lily N. Chinn</td>
<td>Baker Botts LLP San Francisco, CA</td>
</tr>
<tr>
<td>Karen Elizabeth Christian</td>
<td>Akin Gump Strauss Hauer &amp; Feld LLP Washington, DC</td>
</tr>
<tr>
<td>Caroline D. Ciraoolo</td>
<td>Kostelanetz &amp; Fink, LLP Washington, DC</td>
</tr>
<tr>
<td>Nanci L. Clarence</td>
<td>Clarence Dyer &amp; Cohen LLP San Francisco, CA</td>
</tr>
<tr>
<td>Hon. Brian M. Cogan</td>
<td>United States District Judge Eastern District of New York Brooklyn, NY</td>
</tr>
<tr>
<td>Michael A. Collora</td>
<td>Hogan Lovells LLP Boston, MA</td>
</tr>
<tr>
<td>Deborah Connor</td>
<td>Chief, Money Laundering and Asset Recovery Section Criminal Division US Department of Justice Washington, DC</td>
</tr>
<tr>
<td>Bruno L. Cova</td>
<td>Paul Hastings LLP Milano, Italy</td>
</tr>
<tr>
<td>John Cronan</td>
<td>Principal Deputy Assistant Attorney General Criminal Division US Department of Justice Washington, DC</td>
</tr>
<tr>
<td>M. Kendall Day</td>
<td>Gibson, Dunn &amp; Crutcher LLP Washington, DC</td>
</tr>
<tr>
<td>Stephane de Navacelle</td>
<td>Navacelle Paris, France</td>
</tr>
<tr>
<td>Prof. Lucian E. Dervan</td>
<td>Associate Professor of Law Belmont University College of Law Nashville, TN</td>
</tr>
<tr>
<td>Marissel Descalzo</td>
<td>Tache, Bronis, Christianson and Descalzo PA Miami, FL</td>
</tr>
<tr>
<td>Lane Dilg</td>
<td>City Attorney City of Santa Monica Santa Monica, CA</td>
</tr>
<tr>
<td>Viet D. Dinh</td>
<td>Chief Legal and Policy Officer Fox Corporation New York, NY</td>
</tr>
<tr>
<td>Lucy Clark Dougherty</td>
<td>Senior Vice President &amp; General Counsel Polaris Industries Incorporated Medina, MN</td>
</tr>
</tbody>
</table>

*Faculty subject to change without notice.*
Faculty

Charles E. Duross
Morrison & Foerster LLP
Washington, DC

Deborah A. Ellingboe
Faegre Baker Daniels LLP
Minneapolis, MN

Hon. Sara L. Ellis
United States District Judge
Northern District of Illinois
Chicago, IL

Prof. Roger A. Fairfax, Jr.
Patricia Roberts Harris Research Professor of Law
George Washington University Law School
Washington, DC

Zachary Fardon
King & Spalding LLP
Chicago, IL

James E. Felman
Kynes, Markman & Felman, PA
Tampa, FL

Mark Filip
Kirkland & Ellis LLP
Chicago, IL

Alice S. Fisher
Latham & Watkins LLP
Washington, DC

Kobie Flowers
Brown Goldstein Levy LLP
Baltimore, MD

Matthew Friedrich
Executive Vice President, General Counsel, Chief Corporate Affairs Officer and Secretary
Cognizant, Inc.
Linthicum Heights, MD

David Gerger
Gerger Khalil & Hennessy LLP
Houston, TX

Susanne Sachsman Grooms
Deputy Staff Director and Chief Counsel
US House of Representatives Committee on Oversight and Reform
Washington, DC

Benjamin Grundler
Visconti & Grundler
Paris, France

Jamila M. Hall
Jones Day LLP
Atlanta, GA

Deborah L. Harris
Chief, Environmental Crimes Section
Environment & Natural Resources Division
US Department of Justice
Washington, DC

Barry M. Hartman
K&L Gates LLP
Washington, DC

Sean Hecker
Kaplan Hecker & Fink LLP
New York, NY

Karen P. Hewitt
Jones Day LLP
San Diego, CA

Nathan J. Hochman
Browne George Ross LLP
Los Angeles, CA

Laura G. Hoey
Ropes & Gray LLP
Chicago, IL

Hon. Denise Page Hood
Chief United States District Judge
Eastern District of Michigan
Detroit, MI

A. Joseph Jay, III
Sheppard, Mullin, Richter & Hampton LLP
Washington, DC

Amy Jeffress
Arnold & Porter Kaye Scholer LLP
Washington, DC

Randy K. Jones
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC
San Diego, CA

Paula M. Junghans
Zuckerman Spaeder LLP
Washington, DC

Daniel S. Kahn
Senior Deputy Chief Fraud Section
Criminal Division
US Department of Justice
Washington, DC

Norm Keith
Fasken Martineau
DuMoulin LLP
Toronto, Ontario, Canada

John W. Keker
Keker, Van Nest & Peters LLP
San Francisco, CA

Robert K. Kelner
Covington & Burling LLP
Washington, DC

Kathy Keneally
Sidley Austin LLP
Washington, DC

Stephanie Lapière
Stikeman Elliott LLP
Montreal, Canada

Lorinda Laryea
Trial Attorney
FCPA Unit, Fraud Section
Criminal Division
US Department of Justice
Washington, DC

Ibtissem Lassoued
Al Tamimi & Co.
Abu Dhabi, UAE

Melissa L. Laurenza
Akin Gump Strauss Hauer & Feld LLP
Washington, DC

Saverio Lembo
Bär & Karrer Ltd.
Geneva, Switzerland

Connie Lewis Lensing
Bradley Arant Boult Cummings LLP
Nashville, TN

Janet I. Levine
Kendall Brill & Kelly LLP
Los Angeles, CA

Molly Levinson
The Levinson Group
Washington, DC

Miguel Liétard
Director of Litigation
Legal & Compliance Division
Fédération Internationale de Football Association
Zurich, Switzerland

Gary S. Linenberg
Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Linenberg & Rhow, PC
Los Angeles, CA

John Lynch
Chief, Computer Crime and Intellectual Property Section
Criminal Division
US Department of Justice
Washington, DC

Felicia V. Manno
Global Chief Litigation & Investigations Counsel
GE Healthcare
Chicago, IL

Nina Marino
Kaplan Marino, PC
Beverly Hills, CA

David O. Markus
Markus Law PLLC
Miami, FL

Planning Committee

Faculty subject to change without notice.
### Faculty

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
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<tbody>
<tr>
<td>James M. McDonald</td>
<td>Director, Enforcement Division, US Commodity Futures, Washington, DC</td>
</tr>
<tr>
<td>Brian F. McEvoy</td>
<td>Polsinelli PC, Atlanta, GA</td>
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<tr>
<td>Joan McPhee</td>
<td>Ropes &amp; Gray LLP, New York, NY</td>
</tr>
<tr>
<td>Hon. William M. McSwain</td>
<td>United States Attorney, Eastern District of Pennsylvania, Philadelphia, PA</td>
</tr>
<tr>
<td>Hon. Amit P. Mehta</td>
<td>United States District Judge, District of Columbia, Washington, DC</td>
</tr>
<tr>
<td>Melissa Mills</td>
<td>Assistant US Attorney, Central District of California, Los Angeles, CA</td>
</tr>
<tr>
<td>Matthew S. Miner</td>
<td>Deputy Assistant Attorney General, US Department of Justice, Washington, DC</td>
</tr>
<tr>
<td>William (Mitch) R. Mitchelson, Jr.</td>
<td>Alston &amp; Bird LLP, Atlanta, GA</td>
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<tr>
<td>Kelly A. Moore</td>
<td>Morgan Lewis LLP, New York, NY</td>
</tr>
<tr>
<td>Mark C. Moore</td>
<td>Nexsen Pruet LLC, Columbia, SC</td>
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<tr>
<td>Jane W. Moscowitz</td>
<td>Moscowitz &amp; Moscowitz, P.A., Coral Gables, FL</td>
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<tr>
<td>Sandra Moser</td>
<td>Quinn Emanuel Urquhart &amp; Sullivan, LLP, Washington, DC</td>
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<tr>
<td>Dr. Lee-Anne V. Mulholland</td>
<td>Head of Regulatory &amp; Investigations, Google, Mountain View, CA</td>
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<td>William J. Murphy</td>
<td>Zuckerman Spaeder LLP, Baltimore, MD</td>
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<td>Gary P. Naftalis</td>
<td>Kramer Levin Naftalis &amp; Frankel LLP, New York, NY</td>
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<td>Jessica K. Nall</td>
<td>Farella Braun &amp; Martel LLP, San Francisco, CA</td>
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<td>Sara G. Neill</td>
<td>Capes, Sokol, LLP, St Louis, MO</td>
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<tr>
<td>Ariel A. Neuman</td>
<td>Bird, Marella, Boxer, Wolpert Nessim, Drooks, Linenberg &amp; Rhow, PC, Los Angeles, CA</td>
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<tr>
<td>Samuel P. Nitze</td>
<td>Assistant US Attorney, Eastern District of New York, Brooklyn, NY</td>
</tr>
<tr>
<td>Margarita K. O’Donnell Morales</td>
<td>Zuckerman Spaeder LLP, Washington, DC</td>
</tr>
<tr>
<td>Kim Ogg</td>
<td>District Attorney, Harris County, Houston, TX</td>
</tr>
<tr>
<td>April Oliver</td>
<td>Vice President &amp; Associate General Counsel, Office of Global Ethics &amp; Integrity, Salesforce, San Francisco, CA</td>
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<tr>
<td>Allison O’Neil</td>
<td>Locke Lord LLP, Boston, MA</td>
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<tr>
<td>Michael S. Pasano</td>
<td>Carlton Fields, PA, Miami, FL</td>
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<tr>
<td>Steven R. Peikin</td>
<td>Director, Division of Enforcement, US Securities and Exchange Commission, Washington, DC</td>
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<tr>
<td>Kathryn H. Ruemmler</td>
<td>Latham &amp; Watkins LLP, Washington, DC</td>
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<tr>
<td>Anthony M. Ruiz</td>
<td>Zuckerman Spaeder LLP, Washington, DC</td>
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<td>Jonathan S. Sack</td>
<td>Morvillo Abramowitz Grand Jason &amp; Anello PC, New York, NY</td>
</tr>
<tr>
<td>Anjan Sahni</td>
<td>Wilmer Cutler Pickering Hale and Dorr LLP, New York, NY</td>
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<tr>
<td>Michael J. Satin</td>
<td>Miller &amp; Chevalier Chartered, Washington, DC</td>
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<tr>
<td>Jennifer L. Saulino</td>
<td>Covington &amp; Burling LLP, Washington, DC</td>
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<tr>
<td>Alison Saunders</td>
<td>Linklaters, London, England</td>
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<tr>
<td>Mark P. Schnapp</td>
<td>Baker, Donelson, Bearman, Caldwell &amp; Berkowitz, PC, Fort Lauderdale, FL</td>
</tr>
<tr>
<td>Susan Lea Smith</td>
<td>Senior Counsel for Global Compliance, Western Union, Denver, CO</td>
</tr>
<tr>
<td>Prof. Eugene F. Soltes</td>
<td>Jakurski Family Associate Professor of Business Administration, Harvard Business School, Boston, MA</td>
</tr>
<tr>
<td>Hon. Amy J. St. Eve</td>
<td>United States Circuit Judge, Seventh Circuit, Chicago, IL</td>
</tr>
<tr>
<td>Brad Stinn</td>
<td>Tiburon, CA</td>
</tr>
</tbody>
</table>

### Planning Committee

- James M. McDonald
- Brian F. McEvoy
- Joan McPhee

Faculty subject to change without notice.
Faculty

Prof. Ronald S. Sullivan, Jr
Jesse Climenko Clinical Professor of Law
Director, Criminal Justice Institute
Harvard Law School
Cambridge, MA

Kristofer Swanson
Vice President
CRA Charles River Associates
Chicago, IL

Bruce Swartz
Deputy Assistant Attorney General
Criminal Division
US Department of Justice
Washington, DC

Robert W. Tarun
San Francisco, CA

Kevin W. Techau
Smith Mills & Schrock
Des Moines, IA

Hon. G. Zachary Terwilliger
United States Attorney
Eastern District of Virginia
Alexandria, VA

J.D. Thomas
Waller Lansden Dortch & Davis, LLP
Nashville, TN

Sharon Tomkins
Vice President, Customer Solutions & Strategy
Southern California Gas Company
Los Angeles, CA

Anne M. Tompkins
Cadwalader, Wickersham & Taft LLP
Charlotte, NC

Kristen Tranezki
Angeli Law Group LLC
Portland, OR

Caryn L. Trombino
Perkins Coie LLP
Chicago, IL

Jeff Tsai
DLA Piper (US) LLP
San Francisco, CA

Paul A. Tuchmann
Wiggin & Dana LLP
New Haven, CT

Nick Vamos
Peters & Peters Solicitors LLP
London, England

Brandon Van Grack
Chief, FARA Unit
US Department of Justice
Washington, DC

Morris ("Sandy") Weinberg, Jr.
Zuckerman Spaeder LLP
Tampa, FL

John E. Wetzel
Secretary of Corrections
Pennsylvania Department of Corrections
Mechanicsburg, PA

Ronald G. White
Morrison & Foerster LLP
New York, NY

Joe D. Whitley
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
Atlanta, GA

A. Damian Williams
Co-Chief, Securities and Commodities Fraud Task Force
Assistant US Attorney
Southern District of New York
New York, NY

Andrew Wirmani
Assistant US Attorney
Northern District of Texas
Dallas, TX

James R. Wooley, Jr.
Jones Day LLP
Cleveland, OH

Debra Wong Yang
Gibson, Dunn & Crutcher LLP
Los Angeles, CA

Jennifer Zachary
Executive Vice President & General Counsel
Merck & Co., Inc.
Kenilworth, NJ

Robert Zink
Chief, Fraud Section
Criminal Division
US Department of Justice
Washington, DC

Steven E. Zipperstein
Senior Fellow
UCLA Center for Middle East Development
Los Angeles, CA

Richard E. Zuckerman
Principal Deputy Assistant Attorney General
Tax Division
US Department of Justice
Washington, DC

Roger E. Zuckerman
Zuckerman Spaeder LLP
Washington, DC
Agenda

TUESDAY, MARCH 10, 2020

2:00 p.m.–6:00 p.m.  Registration

WEDNESDAY, MARCH 11, 2020

8:30 a.m.  Registration

9:00 a.m.  Significant Legal Developments in the Regions

A. Northeast Region
Ronald G. White, Moderator
A. Joseph Jay, III, Kelly A. Moore, Allison O’Neil, Alexandre H. Rene, Paul A. Tuchmann

B. South Region
William “Mitch” R. Mitchelson, Jr., Moderator
Erica Williamson Barnes, Jamila M. Hall, Jane Serene Raskin, J.D. Thomas,
Anne M. Tompkins

C. Central and Midwest Regions
Caryn L. Trombino, Moderator
Deborah A. Ellingboe, Linda L. Pence, Carole S. Rendon, Kevin W. Techau

D. Western Region
Naeun Rim, Moderator
Angelo J. Calfo, Randy K. Jones, Kristen Tranezki, Jeff Tsai

These panels will discuss new developments and trends in each region to better inform attorneys of strategies and arguments used in litigating white collar cases.

10:15 a.m.  Coffee Break

10:30 a.m.  Breakout Sessions I

A. TRIAL SKILLS—Fundamentals of Trial Practice I
Jane W. Moscowitz, Moderator
Hon. Paul D. Borman, Ellen C. Brotman, Kobie Flowers, Michael J. Satin

This panel will discuss the beginning stages of a trial, including the skills and techniques for presenting a defense to criminal charges, such as jury selection, developing theories and themes, opening statements, cross examination, and presenting Rule 29 motions. Panelists will focus on both the gritty details and grand schemes of trial practice and provide advice on approaching each phase of a trial.

B. Congressional Investigations: What White Collar Professionals Need to Know
Barry M. Hartman, Moderator
Ralph J. Caccia, Katie Biber Chen, Karen Elizabeth Christian, Susanne Sachsman Grooms

Congress is conducting investigations into a wide variety of industries. These are not oversight hearings, but are designed to investigate potential wrongdoing. Panelists will discuss the different issues to consider when facing congressional investigative proceedings, responding to committee requests for records and information versus government subpoenas, the application of the Fifth Amendment and the attorney-client privilege, the role of counsel, and the various statutes that present potential criminal implications for someone testifying.

C. International Extradition and Mutual Assistance
Sandra Moser, Moderator
Zainab N. Ahmad, Isabel Costa Carvalho, Nina Marino, Bruce Swartz, Nick Vamos

Navigating complex cross-border issues is an essential part of white collar criminal practice. This panel will consider the challenges associated with cross-border evidence gathering, mutual legal assistance and its alternatives, extradition, and the rise of both cooperation and competition among global regulators in prosecuting high-profile offenses, including where such competition results in competing extradition requests.

Agenda subject to change without notice.
**Agenda**

**D. Environmental Crimes Enforcement Trends**  
David Gerger, Moderator  
Lily N. Chinn, Deborah Harris, David O. Markus, Kim Ogg  
This panel will analyze recent developments in this enforcement area, including the adoption of new policies by prosecutors, the manner in which they have been applied and the reaction of the courts, and will offer advice on adjusting defenses to this new environment.

**E. Money Laundering and Asset Forfeiture—Seizing Everything “involved in” Crimes**  
Ariel A. Neuman, Moderator  
Deborah Connor, M. Kendall Day, Patricia Peláez, Susan Lea Smith  
What to do when money laundering charges are used to assist in the forfeiture of assets. The panel will discuss the latest trends and developments in this important area, what “involved in” means for forfeiture purposes, and whether this aggressive use of the statutes raises constitutional concerns.

**11:45 a.m.**  
**Women in White Collar Lunch with a Q&A with Litigator Zainab N. Ahmad**  
*Ticketed Event*

**1:00 p.m.**  
**Welcoming Remarks**  
Caroline Judge Mehta  
Lucian E. Dervan, former Chair of the Criminal Justice Section

**1:15 p.m.**  
**General Counsel Forum**  
Alice S. Fisher, Moderator  
Rachel Brand, Viet D. Dinh, Lucy Clark Dougherty, Matthew Friedrich, Jennifer Zachary  
This panel of general counsel will discuss the realities GCs face in the current environment of global investigations and cooperation, and how they deal with them and navigate contacts, relationships, and inquiries with the DOJ, SEC, and other US and non-US regulatory bodies, including handling privilege waivers, joint defense agreements, protective orders, DPAs, NPAs, and more.

**3:00 p.m.**  
**Coffee Break**

**3:15 p.m.**  
**Special Session—Conversation with the Enforcers & Regulators**  
Pamela R. Chepiga, Moderator  
John Cronan, James M. McDonald, Steven R. Peikin  
The directors of the SEC and CFTC Division of Enforcement and a Deputy Assistant Attorney General for the Criminal Division will discuss their current respective agency’s enforcement priorities.

**4:15 p.m.**  
**Breakout Sessions II**

**A. The Foreign Agents Registration Act: An Old Statute Roars Back to Life**  
Robert K. Kelner, Moderator  
Amy Jeffress, Melissa L. Laurenza, William J. Murphy, Brandon Van Grack  
The Act, which imposes criminal penalties on agents of foreign principals who fail to register and disclose their lobbying, political, and public relations activities in the United States, was enacted in 1938 but largely slipped into disuse after World War II. Over the last few years, it has been used more aggressively, and the DOJ now has appointed a criminal prosecutor to lead the FARA Unit. This panel will explore the uptick in enforcement, recent cases, and key issues in defending clients.

**B. Defenses to Criminal Tax Charges – What Works and What Doesn’t**  
Caroline D. Ciraolo, Moderator  
Nathan J. Hochman, Paula M. Junghans, Sara G. Neill, Richard E. Zuckerman  
There is a growing trend of expanding health care fraud, immigration, honest services, securities, and other offenses to include tax charges. Panelists will review the common tax and tax-related crimes, discuss common defenses—what works and what does not—share best practices, and analyze some recent declinations and acquittals.

**C. Compliance, Cooperation, and Monitorships: Current DOJ Policy**  
Jonathan S. Sack, Moderator  
Prof. Roger A. Fairfax, Jr., Matthew Miner, April Oliver, Debra Wong Yang, Steven E. Zipperstein  
Panelists will discuss the framework for evaluating the effectiveness of compliance programs set out in the DOJ Manual and DOJ leadership pronouncements, as well as recent adjustments. They will also consider the impact on compliance programs, cooperation, and the need for monitorships.

*Agenda subject to change without notice.*
D. Updates in Cybercrime: Are We Fighting an Impossible Battle?
Joe D. Whitley, Moderator
Zachary Fardon, John Lynch, Dr. Lee-Anne V. Mulholland, Jessica K. Nall
Information security has now become an essential part of corporate compliance, although it has not slowed the magnitude and frequency of successful cyberattacks. This panel will examine those trends and corresponding government enforcement and regulatory guidance. They will share steps companies can take to comply with such guidance and proactively protect user privacy and critical data from intrusion.

E. Recent Foreign Legal Developments of Interest to US Lawyers
Monty Raphael QC, Moderator
Bruno L. Cova, Benjamin Grundler, Stephanie Lapierre, Felix Rettenmaier
Panelists from five different countries will discuss major developments in each of their respective jurisdictions that should be of particular interest to US white collar practitioners.

5:30 p.m. White Collar Crime Committee Meeting
6:00 p.m. International White Collar Crime Committee Meeting
6:00 p.m. Young Lawyers Reception

THURSDAY, MARCH 12, 2020
8:00 a.m. Registration Continues
9:00 a.m. Opening Remarks
Raymond Banoun
9:20 a.m. Lawrence Barcella, Jr. Memorial Address
Keynote Speaker: To Be Announced
10:00 a.m. The Challenge of Judging in the 21st Century
Hon. Amy J. St. Eve, Moderator
Five noted federal judges, led by United States Circuit Judge Amy St. Eve, will consider some of the personal and professional challenges and difficult substantive issues they confront in the daily administration of justice, in particular in white collar cases. This continuing annual judicial panel explores the evolving task of judging in the 21st century.

11:30 a.m.–1:30 p.m. Book Board Meeting
12:00 p.m. Lunch on Own
1:15 p.m. From FIFA to NCAA and Varsity Blues: The Trend of Enhanced Enforcement Efforts in Traditionally Self-Regulated Sectors
Caroline Judge Mehta, Moderator
Koren L. Bell, Miguel Liétard, Joan McPhee, Mark C. Moore, Samuel P. Nitze
In the past few years, we have seen aggressive investigation and prosecution by federal prosecutors in the areas of domestic and international sports corruption and college admission. This panel will explore this trend, focusing on the federal interest underlying these cases, the reason the DOJ invests resources into pursuing them, the legal theories used, and their jurisdictional bases, as well as the most effective defenses available, the results of those cases, and whether they resulted in lasting reforms.

2:30 p.m. Coffee Break
2:45 p.m. Breakout Sessions III
A. The Foreign Corrupt Practices Act: Recent Developments and Government Priorities
Robert W. Tarun, Moderator
Charles E. Cain, Christopher Cestaro, Karen P. Hewitt, Daniel S. Kahn, Karen A. Popp
Panelists will review bribery enforcement during the past year, the DOJ and SEC priorities for 2020, new enforcement actions and policies in other countries including the United Kingdom, simultaneous negotiation of settlements with the DOJ, SEC, and foreign government anti-corruption agencies, and recent FCPA investigations in Asia, Europe, and South America.

B. ETHICS—Corporate Investigations and the Changing Landscape Created by United States v. Connolly
Jennifer Z. Belveal, Moderator
Emily Allen, Charles E. Duross, Mark Filip, Mark P. Schnapp
Internal investigations have taken on a new complexity, particularly in light of the recent decision in US v. Connolly, in which the Southern District of New York expressed concern with the “outsourcing” of government investigations to corporations. Are the ground rules for internal investigations shifting again? Counsel for the company, individuals, and the DOJ must carefully navigate the legal and ethical landscape to protect their client’s interests and to avoid unintended consequences of cooperation.

C. Crisis Management – What’s a Lawyer and a Company To Do?
Janet I. Levine, Moderator
Bradford A. Berenson, Lane Dilg, Kristin Graham Koehler, Molly Levinson, Amy Pope, Ira H. Raphaelson
Panelists will address the legal and ethical implications of dealing with a crisis from “day one” onward, including the strategic and ethical implications of communications as an increasingly essential tool in mounting a vigorous defense, without breaching ethics rules or upsetting courts or prosecutors.

D. Charged: First-Hand Accounts from White Collar Defendants and In House Lawyers for Companies that Faced Criminal Charges
Nanci L. Clarence, Moderator
Robert Bogucki, Connie Lewis Lensing, Kevin Ring, Brad Stinn, Sharon Tomkins
After the indictment and the headlines, what is it like to live through the experience of being charged with a federal crime or to be the lawyer representing a company that is charged? The panel focuses on the experiences of white collar defendants and the in-house lawyers who have navigated federal criminal investigations that resulted in charges against their companies. Panelists will consider the immediate collateral consequences of indictment, the impact on family, friends, co-workers, and corporate culture, how the decision to testify or not was made, surviving a jury trial and sentencing, the journey to a decision to settle, and life after conviction and incarceration.

E. Sentencing and the New First Step Act Risk and Needs Assessment System
James E. Felman, Moderator
Antoinette T. Bacon, Prof. Sara Sun Beale, Hon. William M. McSwain, John E. Wetzel
The panel will discuss the Risk and Needs Assessment System recently unveiled by the Department of Justice pursuant to the First Step Act. Depending on how defendants score under this new and complex system, they may be eligible for significant reductions in the time spent at a BOP facility. The panel will discuss this new system and how it works, as well as other recent developments, and provide practical tips for effective sentencing advocacy.

4:00 p.m.
Coffee Break

4:15 p.m.
Breakout Sessions IV

A. ETHICS—The Rule of Unintended Consequences – Ethical and Practical Considerations When the Client Is Under Investigation
Michael S. Pasano, Moderator
Kathy Keneally, Felicia V. Manno, Jennifer L. Saulino, Robert Zink
Business does not stop when investigations occur. Businesses must continue to operate and important decisions must be made and implemented. This panel will focus on the role of defense counsel in advising the client while under government scrutiny.
B. Securities Enforcement in 2020: From Banks to Big Tech?
Antonia M. Apps, Moderator
Leslie R. Caldwell, Gary S. Lincenberg, Gary P. Naftalis, A. Damian Williams
Panelists will explore the current major focuses and trends in securities law enforcement, including recent focus on disclosure issues and IPOs in the tech industry, as well as the latest developments in insider trading, accounting fraud, valuation cases, and cryptocurrencies.

C. Navigating the Pitfalls of Cross-Border Investigations
Saverio Lembo, Moderator
Stephane de Navacelle, Norm Keith, Lorinda Laryea, Ibtissem Lassoued, Alison Saunders
Internal investigations trigger all kinds of legal issues when different jurisdictions are concerned. Panelists will discuss the various obstacles (data privacy, state secrets, and blocking statutes, among others) that practitioners can face when conducting global investigations, in particular in Canada, France, the United Arab Emirates, Switzerland, and the United Kingdom.

D. Health Care Fraud Enforcement—From the Travel Act to Telemedicine
Brian F. McEvoy, Moderator
Joseph Beemsterboer, Marissel Descalzo, Laura G. Hoey, Andrew Wirmani
This panel will discuss recent developments in the prosecution of health care fraud matters using evolving theories of criminal liability, such as the Travel Act and enhanced data mining in tele-health investigations.

E. TRIAL SKILLS—Fundamentals of Trial Practice II
Sean Hecker, Moderator
Susan K. Bozorgi, Hon. Charles R. Breyer, Yasmin Cader, Melissa Mills, Anjan Sahni
This panel will provide advice on the presentation of the defense case at trial, in particular the skills and techniques for putting on one’s case, including with respect to the testifying defendant, direct examinations, closing statements, character witnesses, and jury instructions. Panelists will focus on the practical nature of trial practice and demonstrate how to manage each step of the trial.

5:30 p.m.  End of day
5:30 p.m.–7:30 p.m.  Cocktail Reception—Sponsored by Zuckerman Spaeder LLP

FRIDAY, MARCH 13, 2020
9:15 a.m.  Keynote Speaker—Prof. Eugene F. Soltes, Harvard Business School

9:45 a.m.  ETHICS—Privilege Issues Post-Mueller Investigation
Morris (Sandy) Weinberg, Jr., Moderator
Prof. Lara Bazelon, Hon. Robert S. Brewer, Jr., John Keker, Kathryn H. Ruemmler
Prof. Ronald S. Sullivan, Jr., Hon. G. Zachary Terwilliger, James R. Wooley, Jr.
The panel will discuss a series of recent high profile ethics issues, including the repercussions experienced by Professor Sullivan as a result of his representation of Harvey Weinstein, the manner in which prosecutors obtain the testimony of cooperating witnesses through proffers from their lawyers and the resulting potential differences from their own testimony, the myriad of issues for pool counsel addressed by the recent New York City Bar ethics opinion, the attorney/client privilege issues and the crime fraud exception in the Greg Craig prosecution, several post-Mueller issues such as the dilemma of White House witnesses summoned before Congressional committees, and the DOJ essentially outsourcing investigations of companies to the firms representing them, turning private lawyers into prosecutors.

11:45 a.m.  End of Conference

Agenda subject to change without notice.
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Group Rate: $289/night

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