



2011 ABA Annual Meeting
Section of Litigation CLE Programming
August 4-6
Metro Convention Toronto Centre – South Building
Toronto, Canada

Thursday, August 4, 2011

2:00 p.m. – 3:30 p.m.

Presidential CLE

Trial Practices and Tactics in Canada and the United States

Description: This program will feature characteristics of trial practices in Canada and the United States. Barristers from Canada and trial lawyers from the United States will face off trying a case in which the plaintiff claims wrongful termination and a hostile work environment.

Speakers: **Hon. Marvin E. Aspen**, US District Court, Northern District of Illinois; **Madam Justice Gloria J. Epstein**, The Court of Appeal for Ontario; **Julianne Farnsworth**, Farnsworth Law Firm, LLC; **Keathan B. Frink**, Office of Criminal Conflict; **Scott Maidment**, McMillan LLP; **L. David Roebuck**, Heenan Blaikie LLP; **Prof. Steven A. Saltzburg**, George Washington University Law School; **Paul Mark Sandler**, Shapiro Sher Guinot & Sandler; **Robert R. Simpson**, Shipman & Goodwin LLP; **Stephen D. Susman**, Susman Godfrey LLP; **Michael S.F. Watson**, Gowling Lafleur Henderson LLP

3:45 p.m. – 5:15 p.m.

Cross-Border Practice in a Shrinking Global Economy

Description: This program explores the practicalities of international practices in today's global economy. The discussion will include the importance of knowing the customs of foreign jurisdictions. The panel will also address hot topics in international practice, including discovery, privileges, and the United States' investigation and enforcement efforts under the FCPA.

Speakers: **Scott A. Edleman**, Gibson Dunn; **Jorge A. Mestre**, Rivero Mestre LLP; **Fiona K. Orr**, Coca-Cola Ltd.; **Olga Pina**, Fowler White Boggs PA; **Kiran P. Sequeira**, Navigant

Dodd-Frank One Year Later: Panacea or Poison?

Description: Dodd-Frank is directed at curing the ills that spawned the financial crisis. This roundtable discussion of leaders in the financial field will consider whether Dodd-Frank has been successful. The roundtable will touch on changes in SEC enforcement, the impact on the derivatives market, rating agency conduct, investor rights, and the impact Dodd-Frank has had on the bankruptcy process.

Speakers: **Luke Bierman**, Former General Counsel to the New York State Pension Fund; **Irene Chiu**, NAL Pharmaceuticals Ltd; **Eric Dash**, *The New York Times*; **Hon. Mary Walrath**, US Bankruptcy Court, District of Delaware

Thursday, August 4, 2011 continued...

The Perils of Social Media under the Laws of the United States and Canada: A Cautious Tale for Lawyers and Clients

Description: Social media is the next huge sea change in communications. Lawyers, litigants, judges, and jurors are also joining the social-media craze. Here is information about the platforms and their use and disuse in litigation. Topics include lawyer communications on social media; the use of social media in the courtroom; evidence-gathering through social media; social-media issues crossing the borders, including Canadian privacy implications under PIPEDA and Canadian vs. U.S. copyright laws; and ethical implications for lawyers.

Speakers: **Nicole Black**, Fiandach & Fiandach; **Christine Martin**, DecisionQuest; **Dr. Teresa Scassa**, University of Ottawa; **Dominique Shelton**, Wildman, Harrold, Allen & Dixon LLP; **Neil A. Smith**, Ropers Majeski Kohn Bentley PC

Friday, August 5, 2011

8:30 a.m. – 10:00 a.m.

Expert Life after Changes to Rule 26: Should Experts Be Required to Comply with ABA Ethical Standards for Experts?

Description: On December 1, 2010, dealing with experts became easier when communications with testifying experts and draft reports became protected. But how should lawyers address the thorny ethical issues that arise out of expert conduct? The Section of Litigation has proposed that the ABA should adopt ethical standards for experts to address these issues. Should experts be required to comply, and how can lawyers enforce these standards?

Speakers: **Hilarie Bass**, Chair of the Section of Litigation, Greenberg Traurig LLP; **Jeffrey Beaver**, Graham & Dunn PC; **Michael Emmert**, Navigant; **Lawrence J. Fox**, Drinker Biddle & Reath LLP; **Jeffrey J. Greenbaum**, Sills Cummis & Gross PC; **Hon. John G. Koeltl**, US District Court, Southern District of New York

Our Highest Courts: A Comparison of the Canadian and U.S. Supreme Courts

Description: A panel of luminaries from the Canadian and the U.S. Supreme Courts—justices and leading appellate advocates—will conduct a roundtable on the Courts' differences and similarities, focusing on the Courts' respective constitutional roles, illustrated by recent decisions of both Courts on important common issues such as terrorism, civil rights, and role of international law.

Speakers: **Justice W. Ian C. Binnie**, Supreme Court of Canada; **Prof. Drew S. Days III**, Yale University School of Law; **Prof. Linda Greenhouse**, Yale University School of Law; **Thomas G. Heintzman**, McCarthy Tétrault LLP; **President Kenneth W. Starr**, Baylor University

Friday, August 5, 2011 continued...

Shattering the Legal Glass Ceiling: The Myths and Realities of Law-Firm Compensation

Description: Reports demonstrate that female lawyers' median income is only 74% of their male counterparts'. The panel will discuss these reports, the law, and how this disparity affects the practice of law. The panel will recommend best practices and legal strategies to achieve pay equity and promote diversity in the practice of law.

Speakers: **Jim Goh**, Ogletree, Deakins, Nash, Smoak & Stewart, PC; **Roberta D. Liebenberg**, Fine, Kaplan and Black RPC; **Manar S. Morales**, The Project for Attorney Retention, University of California Hastings College of the Law; **Beatrice O'Donnell**, Duane Morris LLP

10:30 a.m. – Noon
Presidential Showcase

“Implicit Bias” and the Myth of Equal Justice

Description: Human judgment involves two different mental processes: intuition and deliberation. Both are essential to good judgment, and intuition is surprisingly accurate. However, people often rely too much on intuition alone. Judgments made in the justice system are no different. The 2009 arrest of Harvard Professor Henry Louis Gates Jr. after he pushed his way through the jammed front door of his home made national headlines amid claims of racial profiling. But unconscious (implicit) bias is not limited to law enforcement. Through a review of “Gates-gate” and other high-profile cases, as well as provocative new research, this engaging and highly interactive multimedia presentation will probe how unconscious sources of intuition about race and gender distort judgment in both criminal and civil cases in the courtroom and beyond.

Speakers: **Hon. Dennis W. Archer**, Dickinson Wright PLLC; **Mark J. Geragos**, The Law Offices of Geragos & Geragos, A Professional Corporation; **Dahlia Lithwick**, *Newsweek* and *Slate*; **Prof. Jeffrey J. Rachlinski**, Cornell University Law School

2:00 p.m. – 3:30 p.m.

The Omar Khadr Case: America's War on Terror

Description: Omar Khadr, a Canadian citizen, was captured by American forces at the age of 15 in Afghanistan and accused of war crimes for throwing a grenade that killed a U.S. soldier. U.S. and Canadian panelists will tell the story of the case from the perspective of the prosecutors, who argued that Khadr was a terrorist, and defense counsel, who referred to him as a “child soldier.”

Speakers: **Erin C. Asborno**, Forman Perry Watkins Krutz & Tardy LLP; **Dennis Edney**, Dennis Edney Criminal Trials and Appeals, Foreign Attorney Consultant to Guantanamo Bay; **Capt. David C. Iglesias**, JAGC, US Navy; **Capt. John Murray**, JAGC, US Navy; **Michelle Shepard**, *Toronto Star*

The Restructuring of the Americas: How Insolvency Courts in Canada, Mexico, and the United States are Reshaping Business

Description: Uncertainty in the worldwide financial markets has led to heightened involvement in and impact upon those markets by the

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insolvency courts of, among other countries, the United States, Canada, and Mexico. This panel will discuss the domestic and international obstacles to the enforcement of cross-border judgments, including fraudulent transfer judgments, and legislative and other efforts to minimize such obstacles.

Speakers: **Hon. Arthur Gonzalez**, US Bankruptcy Court, Southern District of New York; **Thomas S. Heather**, Heather & Heather; **Andrew J.F. Kent**, McMillan LLP; **Madam Justice Sarah Pepall**, Ontario Superior Court of Justice, Toronto Region

The Roberts Court: Three Women, Year Five, and More

Description: As they have for the past four years, the three professors will provide their scholarly, insightful, and, at times, humorous analysis of a Supreme Court term that features yet another new Justice. In past program evaluations, attendees have always said, "I never miss this program." Come join the standing-room-only crowd to find out why.

Speakers: **John M. Barkett**, Shook, Hardy & Bacon LLP; **Prof. Drew S. Days III**, Yale University School of Law; **Prof. Pamela S. Karlan**, Stanford Law School; **President Kenneth W. Starr**, Baylor University

3:45 p.m. – 5:15 p.m.

International Discovery: Around the World in 90 Minutes

Description: Given the growing number of clients with global operations, conducting international discovery efficiently is a must. Using a sample fact pattern, our international panel of attorneys will explain the unique discovery rules followed in their home country and answer questions that commonly arise when conducting international discovery.

Speakers: **Lisa Brost**, McMillan LLP; **Gavin Foggo**, Fox Williams LLP; **Rajeev Sharma Fokeer**, FTPA; **Enrique Hernandez**, Baker & McKenzie; **Maria L. Kreiter**, Godfrey & Kahn SC; **Meg Utterback**, King & Wood

Multi-Jurisdictional, Cross-Border, and International Class Actions: Where Are We Heading?

Description: Class litigation now crosses borders and national legal systems. Senior judges from the United States and Canada, along with a respected legal scholar and practitioner, will forecast the future in light of the U.S. Supreme Court's recent guidance on access to American courts for foreign class members and the ongoing work of several national and international task forces.

Speakers: **John P. Brown**, McCarthy Tétrault LLP; **Hon. Denise Page Hood**, US District Court, Eastern District of Michigan; **Sylvie Rodrigue**, Ogilvy Renault LLP; **Justice George Strathy**, Ontario Superior Court of Justice; **Prof. Janet Walker**, York University Osgoode Hall Law School

Saturday, August 6, 2011

8:30 a.m. – 10:00 a.m.

General Counsel with International Issues: What's on their Minds?

Description: General counsel will discuss important issues they regularly face and the ways that outside counsel can better serve their needs. They will also discuss how the issues and concerns they face in the United States compare to those abroad within their organizations. Questions from the audience will be encouraged!

Speakers: **Terrie-Lynne Devonish**, Aon Canada, Inc; **Michele Coleman Mayes**, Allstate Insurance Company; **Richard L. Horwitz**, Potter Anderson & Corroon LLP; **Kenneth R. Thompson II**, LexisNexis; **Riccardo Trecroce**, Magna International Inc.

Strategic Choices in International Arbitration: The Impact of Forum Selection and Choice-of-Law Decisions

Description: The panel will discuss issues that must be considered when selecting the forum and applicable law in arbitration, including new developments in major forums around the world. These decisions have far-reaching effects influencing every stage of the process. The panel will focus on compelling arbitrations and the enforcement of awards.

Speakers: **David Alderson**, Heydary Hamilton PC; **Gustavo J. Lamelas**, DLA Piper; **David M. Lindsey**, Chaffetz Lindsey LLP; **Nancy M. Thevenin**, Baker & McKenzie

10:30 a.m. – Noon

Presidential Showcase

Civil Rights in the 21st Century: More to Overcome

Description: From the civil rights movement in the 1960s, to the women's movement in the 1970s, and the current battle over the rights of the GLBT community, the issue of civil rights and human rights continues to change and evolve, even as new challenges arise. An illustrious panel of former recipients of the Thurgood Marshall Award will discuss the history of the civil and human rights battles in the United States, their personal contributions to furthering these rights, and the significant legal developments that advanced the causes and the challenges that lie ahead.

Speakers: **C. Elisia Frazier**, Chair of the Section of Individual Rights and Responsibilities; **Hon. Nancy Gertner**, US District Court for the District of Massachusetts; **Dale Minami**, Minami Tamaki LLP; **Paul Smith**, Jenner & Block

Primary Sponsor: ABA Section of Individual Rights and Responsibilities

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