



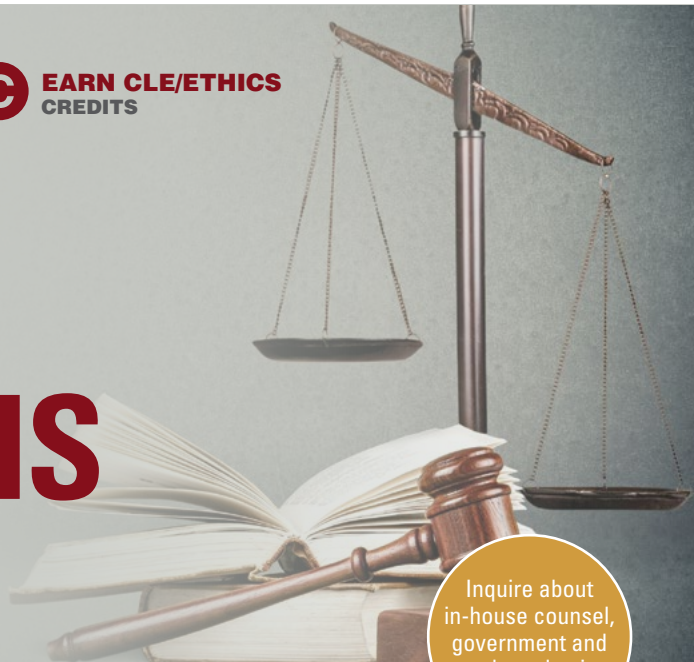
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ACI's 2nd Cross-Industry Interdisciplinary Summit on

Defending and Managing

CLASS ACTIONS



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DSM Nutritional Products, LLC and i-Health, Inc.
- Thomas Graber
CoreLogic
- Jennifer Fease
Equifax
- Deborah Solmor
Career Education Corp.

SESSIONS INCLUDE:

- Class Action Development Round-Up by Key Industry
- Article III Standing and Class Certification Post-*Spokeo*
- The Use of Representative or Statistical Evidence to Substantiate Class Claims Post-*Tyson Foods v. Bouaphakeo*
- Strategies for Stopping Class Actions Before They Start
- Winning Arbitration Strategies for Class Action Litigators and the Future of Class Action Waivers in Arbitration Agreements
- Top Strategies for Securing Class Settlement Approval in the Face of Intense Judicial Scrutiny
- Approaching the Hot Button Issue of Class Action Ascertainability in Your Case and Defeating the “Fail Safe” Class Definition
- Examining the Potential Implications of the Supreme Court Decision in *Microsoft v. Baker*
- Effective Discovery Strategies in Class Action Litigation: Managing Data, Overcoming Challenges of E-Discovery, the Use of Survey Evidence and Beyond
- The Expanding Proliferation of Class Action Multi-District Litigation
- Tackling Unique Ethical Considerations in Class Action Litigation (1 Ethics Credit)

VIEW FROM THE BENCH:

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- Class Action Development Round-Up by Key Industry
- Article III Standing and Class Certification Post-*Spokeo*
- The Use of Representative or Statistical Evidence to Substantiate Class Claims Post-*Tyson Foods v. Bouaphakeo*
- Strategies for Stopping Class Actions Before They Start
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- Tackling Unique Ethical Considerations in Class Action Litigation (*1 Ethics Credit*)

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DAY ONE

Monday, April 3, 2017

7:30

Registration and Continental Breakfast

8:00

Co-Chairs' Welcome Remarks

Hannah Y. Chanoine

Counsel

O'Melveny & Myers, LLP

A. Craig Cleland

Shareholder

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

8:05

In-House Insights on Managing Class Actions from Start to Finish: Responding to Claims, Selecting Law Firm Counsel, Strategies for Managing Litigation Costs and Budgets, Adapting Key Defense Strategies, Key Settlement Considerations and Beyond

PANEL 1 (8:05 – 9:10)

Kacy Goebel

Corporate Counsel

The Home Depot

Susan E. Dunnings

Vice President

Lockheed Martin Co.

Eric Spett

VP, Assistant General Counsel

Ocwen Financial Corporation

Lynne Bezikos LeBlanc

Senior Counsel

Philips Consumer Lifestyle

Syeda Raza

Vice President & Associate

General Counsel

HMS Host

Richard Heller

Senior Vice President and

General Counsel

Legal Sea Foods

Deborah Solmor

Vice President & Deputy

General Counsel, Litigation

Career Education Corp.

Panel 1 & 2 Moderator:

Michael Ferachi, **McGlinchey Stafford PLLC**

PANEL 2 (9:10 – 10:15)

Reginald Johnson

Assistant General Counsel

Family Dollar Stores

William B. Sailer

Senior VP, Legal Counsel

Qualcomm Incorporated

Alice Wang

General Counsel

National Creditors

Connection, Inc.

Jason J. Stephans

Senior Counsel

DSM Nutritional Products, LLC and i-Health, Inc.

Thomas Graber

Vice President, Deputy

General Counsel & Chief

Litigation Counsel

CoreLogic

Jennifer Fease

Associate General Counsel

Equifax

Sarah Topy

Counsel

Procter & Gamble

10:15

Morning Break

10:25

Class Action Development Round-Up by Key Industry: Securities, Consumer Products, Wage & Hour/FLSA, Environmental, and Beyond

James Langdon

Dorsey & Whitney LLP

Timothy Blood

Blood Hurst & O'Reardon LLP

- A comprehensive overview of the latest most notable class action developments across industries:
 - Securities / securities fraud
 - Consumer products
 - Wage and Hour / FLSA
 - Environmental class actions
 - Food and Beverage

11:15

Article III Standing and Class Certification Post-Spokeo – New Legal Issues Sprouting Since the Decision, Lower Court Application and Interpretation, Addressing Unpredictable Standing Challenges and Key Class Action Defense Takeaways

Robert M. Carmen

Complex Claims Director

AIG

P. Russell Perdue

Locke Lord LLP

Andrew J. Demko

Katten Muchin Rosenman LLP

- An examination of the aftermath of *Robins v. Spokeo* – what impact has been seen on class certification decisions?
- What trends are being seen in the lower courts' application of *Spokeo*?
- Injury-in-fact post-*Spokeo*
- Tangible vs. intangible injury under *Spokeo*
- Violations of statutes which provide for private causes of action after *Spokeo*
- What legal issues have sprouted from the decision?
 - Can an alleged statutory violation of a state statute alone suffice as a concrete injury in fact and confer Article III standing?
 - Lower court decisions addressing this issue
- What degree of risk of harm is sufficient to meet the concreteness requirement?
- When a case gets bounced out of federal court and refiled in state court, what *Spokeo* arguments are being used to get cases successfully dismissed from state court?
- Examining key class action defense takeaways 1 year after *Spokeo*

12:05

The Use of Representative or Statistical Evidence to Substantiate Class Claims Post- *Tyson Foods v. Bouaphakeo* – Examining the Fallout and Critical Nuances to Consider When Developing Your Litigation Strategy

Michael McCluggage
Eimer Stahl LLP

Gary Lynch
Carlson Lynch Sweet & Kilpela LLP

Derek Ho
Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C

- Examining the fallout of *Tyson* and the implications of the decision on proving damages in class actions, and FLSA collective actions
- How are parties using *Tyson* to help with damages theories and modeling? How is this impacting use of experts?
- How is this decision rippling through and impacting class actions?
- Defense strategies for taking the offensive and using plaintiffs' own sampling to defeat class allegations

12:55

Networking Lunch for Speakers and Delegates

1:55

Strategies for Stopping Class Actions Before They Start: Establishing an Early Off-Ramp to the Class Action Lawsuit

Michael Mallow
Sidley Austin LLP

Mary Beth Buckley
Sedgwick LLP

- What trends are being seen in consumer issues the plaintiffs' bar is focusing on in bringing class claims? How can defense lawyers strategically act to prevent such claims before they are filed?
- Documents and procedures that can allow for an early off-ramp to a class action lawsuit
- Contract clauses escalating dispute resolution provisions (requiring a chance for the corporate defendant to try and resolve a dispute before a lawsuit is filed)
- Setting up the argument that one person cannot fulfill that prerequisite for an entire class
- Strategies for avoiding or defending class claims through early motion practice; strategies for aggressive early motion practice on the class pleading before the merits issues

2:40

Winning Arbitration Strategies for Class Action Litigators, and the Future of Class Action Waivers in Arbitration Agreements Given the New Administration and the Recent Circuit Court Split on the Issue

Anthony J. Laura
Epstein Becker & Green, P.C.

Theane Evangelis
Gibson, Dunn & Crutcher LLP

- The latest developments and trends in class action arbitration
- Assessing the benefits and risks of class arbitration
- Winning arbitration strategies for class action litigators – identifying the greatest challenges and how to overcome them
- Assessing the conflicting standards regarding the enforceability of class action waivers in arbitration agreements given the recent circuit court split on the issue – what does the future hold?
- Will the Trump administration set the anti-arbitration advocates and agencies back?

3:30

Afternoon Break

3:40

Mock Settlement Exercise: Top Strategies for Securing Class Settlement Approval in the Face of Intense Judicial Scrutiny and Hurdles

Hon. Anthony Mohr
Superior Court Judge
Calif. Sup. Ct., LA County

Tina Wolfson
Ahdoot & Wolfson, PC

Douglas Weiner
Lipman & Plesur, LLP

- Tips, best practices and key strategies for dealing with the court approval process of class settlements
- What are the biggest hurdles and challenges attorneys are facing in obtaining settlement approval? What are courts looking at to determine if a settlement is valid?
- Court examination of settlement proposition
- Rule 23 and notice requirements
- The claims process
- Procedural guidance for class action settlements and the issue of attorney's fees
- Preliminary approval and settlement administration
- Exclusions, objections and what a court can and cannot do with cy pres awardees

4:35

Strategically Approaching the Hot Button Issue of Class Action Ascertainability in Your Case, and Defeating the "Fail Safe" Class Definition: Crucial Insights from Seasoned Litigators Based on Real Life Case Scenarios

Christopher Landgraaf
Bartlit Beck Herman Palenchar & Scott LLP

Robert Rutherford
Burr & Forman LLP

- The most persuasive arguments for ascertainability in the class certification phase

- The most strategic ways defendants are attacking ascertainability in the class certification phase
- Protecting the right to due process
- Examining the latest case law relating to the “fail safe” class definition
- Strategies for avoiding/defeating the creation of a fail safe class
- When are courts willing to permit revision of class definitions to remedy fail safe classes?

5:20

Can Plaintiffs Force an Appeals Court to Reconsider a Class Certification Denial by Voluntarily Dismissing Their Claim with Prejudice? Examining the Potential Implications of the Supreme Court Decision in *Microsoft v. Baker*

Jennifer Quinn-Barabanov
Step toe & Johnson PLLC

P. Russell Perdew
Locke Lord LLP

- Expert insights into the Supreme Court case of *Microsoft v. Baker*
- Can a party have standing to bring a claim in a class action suit in the absence of a recognized class of individuals harmed?
- What are the arguments?
- What have the circuit courts said?
- Is this a legitimate loophole in the law that makes it easier to bring class action lawsuits?
- What will the implications of this decision be?

6:05

Conference Adjourns



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DAY TWO

Tuesday, April 4, 2017

7:30

Continental Breakfast

8:00

View from the Bench



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Hon. Michael Baylson
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Hon. James Robart
 U.S. Dist. Ct., W.D. Wash



Hon. David Hittner
 U.S. Dist. Ct., S.D. Texas



Hon. Kurt D. Engelhardt
 U.S. Dist. Ct., E.D. Louisiana



Hon. Paul Warner
 U.S. Dist. Ct., D. Utah



Hon. Ruben Castillo
 U.S. Dist. Ct., N.D. Ill.



Hon. Timothy Batten
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Hon. Anthony Mohr
 Calif. Sup. Ct. LA County



Hon. Sarah Hicks Stewart
 13th Jud. Circ., Mobile County, Alabama



Hon. Sean McPartland
 Sixth Judicial District of Iowa

Moderator:

A. Craig Cleland
 Shareholder

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

9:40

Morning Break

9:45

Effective Discovery Strategies in Class Action Litigation: Managing Data, Overcoming Challenges of E-Discovery, the Use of Survey Evidence, and Pursuing Discovery in the Most Efficient and Cost-Effective Way for Your Client

Eva W. Cole
Winston & Strawn LLP

Jonathan Gardner
Labaton Sucharow LLP

- Pre-certification discovery
- Proportionality and discovery planning in a class actions
- Overcoming the challenges of e-discovery in class actions
- The impact of state and federal e-discovery rules
- Engaging legal and e-discovery class proceedings experts
- Taking the right steps to preserve data in the most cost-effective way
- Optimal strategies for limiting the scope of e-discovery
- Avoiding e-discovery traps set by plaintiffs
- The latest trends in the use of survey evidence in class actions; examining the benefits, challenges and implications

10:30

The Expanding Proliferation of Class Action MDL's (Multidistrict Litigation) and Ways to Combat Plaintiffs' Strategic Filing of Multiple Federal and State Class Actions Based on the Same Alleged Problem

Michael B. Gallub David Marriott
Herzfeld & Rubin, P.C. **Cravath, Swaine & Moore LLP**

- Combatting plaintiffs' strategies of:
 - Attempting to maneuver an MDL into a target venue by stacking multiple duplicative class actions
 - Attempting to maneuver an MDL to a desired judge through unreasonable pursuit of accelerated relief and court orders
 - Creating multiple battle fronts through targeted federal and state filings
 - Forum shopping in the state system, and creating state MDLs to compete with the federal MDL
 - Orchestrating the filing of individual (non-class) actions based upon the same controversy
 - Attempting to have the action treated as a "class action" at the pleadings and discovery stages
 - Pursuing unfounded and burdensome document and document preservation issues
 - Creating issues designed to increase the scope, cost and "stakes" of the litigation
 - Other strategies designed to impair defendants' procedural and substantive rights

11:10

Tackling Unique Ethical Considerations in Class Action Litigation (1 ETHICS CREDIT)

Van H. Beckwith Hannah Y. Chanoine
Baker Botts LLP **O'Melveny & Myers, LLP**

- Duty of loyalty
- Conflicts within cases
- Communications with class members
- State variations
- Looking at the differences among class members
- Preserving Privilege
 - Best practices for preserving privilege
 - Legal communications
 - Witness interviews

- E-communications
- Common interest privileges
- Joint defense privilege
- Common defense privilege
- Model rule review

12:10

Conference Ends



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