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The Seventh Annual Comprehensive Conference on

Litigating Class Actions

New developments and strategies from plaintiff and defense perspectives

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May 9 & 10, 2011

Seattle, Washington

Washington State Convention Center

Credits: WA CLE 13 including 1 ethics | (call about others)

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Litigating Class Actions Conference

May 9 & 10, 2011 | Seattle, Washington
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8:00 Registration and Continental Breakfast
8:30 Introduction to Day 1: Current and Emerging Decisional Trends

Thomas L. Boeder, Esq., Program Co-Chair
Perkins Coie LLP ~ Seattle, WA
Timothy G. Fielden, Esq., Program Co-Chair
Microsoft Corporation ~ Redmond, WA

8:45 National Class Actions Trends
Best current strategies and arguments for winning or defeating class certifications, implications of the Tobacco Two case for state class actions and the level of proof of damages for plaintiffs
Charles B. Casper, Esq.
Montgomery, McCracken, Walker & Rhoads, LLP
Philadelphia, PA

9:30 Section 17200 Update
Effect on consumer fraud and labor/employment class actions; causation and remedial issues; Section 17200 claims in federal court
Philip A. Leider, Esq.
Chapman, Popik & White LLP

10:15 Break Sponsored By GCG Garden City Group
10:30 Dukes v. Wal-Mart and Other Labor and Employment Class Actions
Dukes v. Wal-Mart; Hernandez v. Chipotle Mexican Grill
James W. Michalski, Esq.
Holland & Knight LLP ~ Los Angeles, CA

11:15 Washington State Consumer Protection Class Actions
Plaintiff and defendant perspectives on arbitration provisions; choice of law issues, reliance/causation issues, Washington's recent rejection of the economic loss rule; national trends
Beth E. Terrell, Esq.
Terrell Marshall & Daudt PLLC ~ Seattle, WA
Todd L. Nunn, Esq.
K&L Gates LLP ~ Seattle, WA

12:15 Lunch (on your own)

1:30 Emerging Subject Areas Where Regulatory Enforcement May Lead to Class Actions
Financial fraud, recent class certification and CAFA developments
Julia B. Strickland, Esq.
Stroock & Stroock & Lavan LLP ~ Los Angeles, CA
Securities; the Dodd Frank Act and its impact on Class Actions
Neal R. Marder, Esq.
Winston & Strawn LLP ~ Los Angeles, CA

2:30 Internet Privacy and Advertising Class Action Suits
Why class action lawyers are focusing greater attention on privacy and behavioral advertising; claims raised; strategies for defending Internet class action suits
Ian C. Ballon, Esq.
Greenberg Traurig, LLP ~ Santa Monica, CA

3:15 Break Sponsored By GCG Garden City Group
3:30 Tips for Plaintiffs and Defendants for Dealing With Parallel Government Investigations
Multi-state investigations, including health care
Brady R. Johnson, Esq.
Assistant Attorney General, Antitrust Division
Office of the Attorney General of Washington ~ Seattle, WA

Defendant's perspective
Patrick M. Madden, Esq.
K&L Gates LLP ~ Seattle, WA
Plaintiff's perspective
Todd F. Jackson, Esq.
Lewis, Feinberg, Lee, Renaker, & Jackson, P.C. ~ Oakland, CA

5:00 Continue the Exchange of Ideas: Reception for Faculty and Attendees Sponsored by Perkins Coie LLP and Winston & Strawn LLP



About the Conference



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Class action law continues to develop at a rapid pace, often unevenly depending on the jurisdiction. The complexity of this area of law is increased by the fact that class action procedures and practice are an overlay affecting numerous substantive legal regimes, including antitrust, contracts, consumer protection, false claims act/whistle blowers, financial transactions, government investigations, labor and employment, privacy, and securities to name just a few.

This conference brings together a diverse faculty of leading class action practitioners to discuss new developments and strategies from the plaintiff and defense perspectives to meet the practical and ethical challenges presented by class actions

~ Program Co-Chairs: Thomas L. Boeder, Esq. and Timothy G. Fielden, Esq.



8:00 Continental Breakfast Sponsored by Katten Muchin Rosenman LLP

8:30 Introduction to Day 2: Litigation Tips and Strategies
Thomas L. Boeder, Esq., Program Co-Chair
Timothy G. Fielden, Esq., Program Co-Chair

8:45 Update: Watching for Ethical Challenges
 Initial investigation; class member recruitment; motion practice; settlement negotiations; when and how to negotiate attorney's fees; common fund and statutory fees cases, valuing non-monetary class benefits and judicial candor in claims-made settlements
Stephen M. Rummage, Esq.
 Davis Wright Tremaine LLP ~ Seattle, WA

9:45 Preparing to file Class Actions
 Case investigation and selection of class representatives (qualifications, disqualifications, conflicts, solicitation); pre-filing preparation, strategies
Jonathan D. Selbin, Esq.
 Lief Cabraser Heimann & Bernstein, LLP ~ New York, NY

10:30 Break Sponsored By GCG Garden City Group

10:45 Special Address: What Defendant's Need to Know About the Use of New Media in the Critical First Hours and Days of Filing
 Practical steps corporate defendants must implement to level the playing field and retake the advantage amid increased client demand for brand protection in a perilous viral environment
Richard S. Levick, Esq., President and CEO
 Levick Strategic Communications ~ Washington, DC

11:30 New Developments: Cases Involving Foreign Defendants
 Jurisdiction following the U.S. Supreme Court decision in National Bank of Canada; discovery for non U.S. companies in U.S. litigation; the impact of the American system of complete disclosure
Daniel P. Shapiro, Esq.
 Katten Muchin Rosenman LLP ~ Chicago, IL

12:15 Lunch (on your own)

1:30 Developing Trial Strategies and Approaches
 Plaintiff's perspective
Steve W. Berman, Esq.
 Hagens Berman Sobol Shapiro LLP ~ Seattle, WA
 Defendant's perspective; what to learn from juries, mock juries and juror interviews
Thomas L. Boeder, Esq.
 Perkins Coie LLP ~ Seattle, WA

2:15 Modifying Your Approach for Multi-State Class Actions
 Plaintiff's perspective
Adam J. Levitt, Esq.
 Wolf Haldenstein Adler Freeman & Herz LLC ~ Chicago, IL
 Defendant's perspective
Rebekah Kaufman, Esq.
 Morrison & Foerster LLP ~ San Francisco, CA

3:00 Break Sponsored By GCG Garden City Group

3:15 Motions to Dismiss Under Rule 12(b)(6): Updating Your Playbook After the Twombly and Iqbal Cases
 Pleading enough facts to cross the line from possible claim to probable claim
Steve W. Berman, Esq.
 Hagens Berman Sobol Shapiro LLP ~ Seattle, WA

4:00 After the Post-Certification: Motion Issues in Class Actions
 Reconsideration Motion; Rule 23(f) petition; merits discovery; experts, summary judgment; motion for trial plan and decertification motions
 Defendant's perspective
Fred B. Burnside, Esq.
 Davis Wright Tremaine LLP ~ Seattle, WA
 Plaintiff's perspective
Adam Berger, Esq.
 Schroeter Goldmark & Bender ~ Seattle, WA

5:00 Evaluations and Adjourn



Registration & Other Conference Information

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 Walk-ins are welcome, subject to space availability.
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Tuition: Regular tuition for in person or webcast attendance for this program is \$1245 with a group rate of \$935 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$830. For students and people in their job for less than a year, our rate is \$622.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Make checks payable to Law Seminars International.

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that time, we will credit your tuition toward attendance at another program or the purchase of a Homestudy. There is a \$25 cancellation fee for Course Materials orders and \$50 for Homestudy orders.

Seminar Location: The conference will be held at the Washington State Convention Center at 800 Convention Place in Seattle, WA 98101. Call The Roosevelt Hotel, 1531 Seventh Avenue Seattle, WA 98101, at (206) 621-1200 for room reservations at the special negotiated rate of \$159.00 and mention that you are attending this Law Seminars International conference. Rooms are on a first come, first served basis.

Continuing Education Credits: Live credits: This program qualifies for 13 WA CLE including 1 ethics credits. Upon request, we will apply for CLE credits in other states and other types of credits.

If You Cannot Attend: Our complete Homestudy Course, consisting of a DVD recording and the course materials (either a binder or searchable CD), is available for \$1255. The course materials alone are available for \$100. We will ship your Homestudy order via UPS ground within two weeks after the seminar or from the date we receive payment.

Faculty: Litigating Class Actions Conference

Thomas (Tom) L. Boeder, partner, Perkins Coie LLP, focuses on anti-trust, antitrust clearance for mergers and acquisitions, class actions, consumer product liability and consumer protection litigation, and intellectual property litigation. He is a former Washington State Deputy Attorney General and Chief of Antitrust, Consumer Protection and Criminal Law Enforcement in the Washington State Attorney General's Office. He is listed in *Chambers USA, America's Leading Commercial Litigation Lawyers* and *The Best Lawyers in America*.

Timothy G. Fielden, *Program Co-Chair*, is an Associate General Counsel in Legal and Corporate Affairs at Microsoft Corporation, where he represents the company in class action, products liability, and commercial litigation. He oversees outside counsel and collaborates with Microsoft executives and employees in complex litigation in federal and state trial and appellate courts throughout the United States, as well as in Asia, Canada, and Europe.

Richard S. Levick, *Special Address*, is President and CEO of Levick Strategic Communications, which handles the highest profile crisis and litigation globally. He is listed as one of *The 100 Most Influential People in the Boardroom*.

Ian C. Ballon, shareholder, Greenberg Traurig, LLP, represents defendants in privacy and other Internet-related class action litigation and both plaintiffs and defendants in Internet, IP and technology cases. He is the author of *E-Commerce and Internet Law: Treatise with Forms 2d edition*, the Executive Director of Stanford University's Center for E-Commerce, and is listed in *Chambers* in the areas of privacy and security.

Adam Berger, partner at Schroeter Goldmark & Bender, focuses on wage and hour class actions on behalf of employees and consumer class actions arising from deceptive advertising and unfair business practices.

Steve W. Berman, founder and managing partner of Hagens Berman Sobol Shapiro LLP, is counsel in high profile securities, consumer, products liability, antitrust and employment class actions. *The National Law Journal* names him "one of the top 100 attorneys in the U.S."

Fred B. Burnside, partner, Davis Wright Tremaine LLP, Co-Chair, Class Action Defense Group, concentrates his practice in complex civil litigation, with emphasis on consumer class action defense.

Charles B. Casper, partner, Montgomery, McCracken, Walker & Rhoads, LLP, is chair of the Class

Action & Technology Practice Group, emphasizing defense of nationwide and statewide antitrust and consumer class actions, computer software and hardware litigation, complex commercial litigation and antitrust litigation.

Todd F. Jackson, shareholder, Lewis, Feinberg, Lee, Renaker, & Jackson, P.C., with the firm where he represents employees in class action cases involving overtime pay, pension benefits, and employment discrimination.

Rebekah Kaufman, partner, Morrison & Foerster LLP, is experienced in the areas of consumer class action and financial services litigation, complex commercial disputes between companies. She represents clients from banks, mortgage companies, and other financial institutions, to retail stores and consumer product and electronics manufacturers.

Brady R. Johnson, Assistant Washington State Attorney General, Antitrust Division, is responsible for enforcing the antitrust provisions of Washington's Unfair Business Practices-Consumer Protection Act. The Division brings actions in federal court under Sections One and Two of the Sherman Act and investigates complaints about potential anti-competitive activity.

Philip A. Leider, Chapman, Popik & White LLP, has experience litigating matters in state and federal courts with an emphasis on consumer class actions. Previously, he worked for the San Francisco City Attorney, involved in the litigation securing equal marital rights for gays and lesbians in California.

Adam J. Levitt, partner, Wolf Haldenstein Adler Freeman & Herz LLC, focuses his practice on class actions and complex commercial litigation, on both the trial and appellate court levels, in federal and state courts nationwide, in the areas of securities, antitrust, consumer protection, technology, and agricultural law.

Patrick M. Madden, partner, K&L Gates LLP, focuses his practice on wage and hour and employment law matters. He advises employers on wage and hour payment and compliance and compensation plan design; assists employers responding to agency investigations; and represents employers in wage and hour, discrimination, and other lawsuits at state and federal levels.

Neal R. Marder, partner, Head of Litigation Los Angeles office, Winston & Strawn LLP, Head of firm's Class Action Practice, is on the firm's Executive Committee. He concentrates his practice on complex business and commercial litigation, white collar, securities, internal investigations, and antitrust, with an emphasis on the

defense of class actions. He is listed in *The Best Lawyers in America* and *Southern California Super Lawyers*.

James W. Michalski, senior counsel, Holland & Knight LLP, represents management in business and employment matters for a diverse clientele ranging from major national corporations to mid-sized businesses in state and federal courts (including successfully first chairing jury trials) in cases involving claims of wrongful termination, discrimination and harassment on the basis of sex, sexual orientation, race, national origin, and disability.

Todd L. Nunn, partner at K&L Gates, focuses on class action defense and electronic discovery. His experience includes defense of numerous nationwide and statewide breach of contract and consumer protection class actions. He has also defended government regulation, products liability, and environmental class actions.

Stephen M. Rummage, partner at Davis Wright Tremaine LLP, has defended consumer class actions, securities fraud claims, right of publicity actions, complex contract disputes, and construction matters. He represents clients from a variety of industries, including financial services, telecommunications, software, digital media, leisure travel, major league sports and utilities.

Jonathan D. Selbin, partner, Liefke Cabraser Heimann & Bernstein, LLP, heads the Economic Injury Product Defect Practice Group, and is a member of the Executive Committee. He focuses on consumer protection and defective products cases.

Daniel P. Shapiro, partner at Katten Muchin Rosenman LLP, is experienced in litigating and trying complex class actions. He is Co-Chair of the American Bar Association's Consumer Class Action Subcommittee and a member of the advisory board for the Bureau of National Affairs publication *Class Action Litigation Report*.

Julia B. Strickland, partner, Stroock & Stroock & Lavan LLP, focuses on the defense of class actions and other complex actions brought against a multitude of companies in a wide range of industries. She has experience in litigation issues confronting large companies, and has defended class and complex actions through all stages of the litigation process.

Beth E. Terrell, member, Terrell Marshall & Daudt PLLC, focuses on complex litigation, including prosecution of consumer fraud, defective product, securities, and wage and hour class actions. She has been co-lead counsel on multi-state and nationwide class actions.

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Who Should Attend:

Corporate and trial attorneys, corporate executives and governmental officials responsible for managing class actions litigation

You Will Learn About:

- Best current strategies and arguments for winning or defeating class certifications
- Section 17200
- Labor and employment class actions
- Washington state consumer protection class actions
- Emerging subject areas: Financial, securities, privacy
- Dealing with parallel government investigations
- Watching for ethical challenges
- Preparing to file class actions
- What defendant's need to know about new media
- Cases involving foreign defendants
- Developing trial strategies and approaches
- Modifying your approach for multi-state class actions
- Updating your playbook after the Twombly and Iqbal cases
- Motion issues in class actions after the post-certification

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