



**LAW SEMINARS
INTERNATIONAL**

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The 17th annual conference on

Litigating Class Actions

*Best tips and strategies for successfully navigating current litigation trends
from nationally renowned class action litigators*

October 21 & 22, 2021

Live Online | Pacific Time Zone

Agenda—Day 1

9:00 Introduction & Overview

Rebecca J. Francis, Esq., *Program Co-Chair,
Senior Attorney*
Microsoft ~ Redmond, WA
Nicola Menaldo, Esq., *Program Co-Chair*
Perkins Coie ~ Seattle, WA

9:15 Update on Current Case Law Trends

Piecing together the trends from last year's major decisions

Charles B. Casper, Esq.
Montgomery McCracken Walker & Rhoads
Philadelphia, PA

10:00 Break

10:15 Implications of Recent Case Law Under Rule 23

Recent SCOTUS decisions; the latest on the split in the circuits on ascertainability and the approach taken by the Ninth Circuit; use of public nuisance theories as a way to get around Rule 23; the impact of TransUnion in the lower courts

Alexander Tievsky, Esq.
Edelson PC ~ Chicago, IL
Ashley M. Simonsen, Esq.
Covington & Burling ~ Los Angeles, CA

11:15 Mass Arbitrations as a Procedural Strategy in Consumer and Employment Class Actions

Plaintiff perspective on mass arbitrations as an alternative to class actions; emerging arbitrator mass arbitration protocols; defense perspective on the best deterrence approaches and response strategies

Jay Edelson, Esq.
Edelson PC ~ Chicago, IL
Michael J. Holecek, Esq.
Gibson Dunn & Crutcher ~ Los Angeles, CA

Public interest NGO perspective on the use of mass arbitrations as a strategy

F. Paul Bland, Jr., Esq., *Executive Director*
Public Justice ~ Washington, DC

12:15 Lunch Break

1:30 Covid and Employment Class Actions

An industry-by-industry review of cases alleging labor and employment violations related to the coronavirus with decisional trends so far

Toby Marshall, Esq.
Terrell Marshall Law Group ~ Seattle, WA
William (Ben) Stafford, Esq.
Perkins Coie ~ Seattle, WA

2:30 Privacy Class Actions

How evolving technologies are giving rise to new liability theories: Facebook & Cambridge Analytica unauthorized data scraping; lessons from "Zoombombing" cases for technology platform companies; decisional trends from recent cases

David J. Ko, Esq.
Keller Rohrback ~ Seattle, WA
Sunita Bali, Esq.
Perkins Coie ~ San Francisco, CA

3:30 Break

3:45 Other Consumer Class Actions

Update on Covid-related consumer class actions; cases involving in-app purchases; MDLs that have both class action and mass tort actions proceeding together (such as Opioids MDL, Juul MDL etc); other developments

Derek W. Loeser, Esq.
Keller Rohrback ~ Seattle, WA
Thomas E. Loeser, Esq.
Hagens Berman Sobol Shapiro ~ Seattle, WA
Tim Blood, Esq.
Blood Hurst & O'Reardon ~ San Diego, CA

5:00 Adjourn Day 1

Agenda—Day 2

9:00 Legal Ethics for Class Action Practitioners

Common Rules of Professional Conduct issues in class actions; emerging new issues including the use of social media campaigns to solicit clients for mass arbitrations and the point at which attorney/client privileges and obligations commence

Stephen M. Rummage, Esq.
Davis Wright Tremaine ~ Seattle, WA

10:00 Break

10:15 Securities Class Actions

Goldman Sachs and other cases involving misleading statements; Robinhood/GameStop class action; insider trading; failure to disclose climate risks; interplay with government investigations

Daniel J. Dunne, Jr., Esq.
Orrick Herrington & Sutcliffe ~ Seattle, WA

11:00 Class Action Appellate Practice

Effective use of post-trial motions to set the stage for an appeal; tips for keeping your focus on what makes judges want to decide for you

Juli Farris, Esq.

Keller Rohrback ~ Seattle, WA

Kim D. Stephens, Esq.

Tousley Brain Stephens ~ Seattle, WA

The Hon. Ronald E. Cox Esq., Judge (ret.)

JAMS ~ Seattle, WA

12:00 Lunch Break

1:15 Evidentiary Standards for Class Certification and Proving Damages

The evidentiary burden at class certification: Must class certification evidence be admissible? Does it matter if it's fact evidence or expert testimony? How can we expect the split in the circuits to be resolved?

Fred B. Burnside, Esq.

Davis Wright Tremaine ~ Seattle, WA

The economics: Use of modeling during the class certification stage; current best thinking for measuring or estimating damages in antitrust, securities, and consumer protection and privacy cases

Michael Kheyfets, Partner

Edgeworth Economics ~ Washington, DC

2:30 Settlement Strategies

Current best practices for designing a settlement that the courts will approve and effectively administering settlements once approved

The Hon. Rebecca Westerfield, Esq., Judge (ret.)

JAMS ~ San Francisco, CA

The Hon. Layn R. Phillips, Esq., Judge (ret.)

Phillips ADR Enterprises ~ Corona Del Mar, CA

The Hon. Ronald E. Cox, Esq., Judge (ret.)

JAMS ~ Seattle, WA

3:30 Evaluations and Adjourn

Who Should Attend

Attorneys, business executives, and consultants involved with class action litigation, and government officials involved with parallel investigations

About the Conference

This year the response to the Covid-19 pandemic continues to permeate all of our daily lives with class action litigation being no exception. Covid-related claims have been filed in virtually every topic area we will cover in this year's program. That is particularly true for employment and consumer class actions.

An interesting development for employment and consumer class actions has been the emergence of mass arbitrations as a procedural strategy. We'll have a panel explore in detail mass arbitrations as an alternative to class actions.

In the privacy arena, evolving technologies are giving rise to new liability theories. You'll have an opportunity to get updated on decisional trends from recent cases.

Securities class action litigation also has been an active area. We'll explore cases involving misinformation, failure to disclose, insider trading, and stock manipulation. As the reality of climate change becomes apparent, those are increasingly likely to include claims regarding potential liability for some business activities and the risk to business operations for others.

While most class actions settle others go to trial and then go on appeal. We've added a panel on appellate practice for this year's program. We'll also have a panel on evidentiary standards for class certification and proving damage from both a legal perspective and a technical perspective on the use of modeling.

For our wrap-up session on settlement strategies, we're featuring two experienced neutrals to provide their perspectives on the current best practices for designing a settlement that courts will approve and that can be administered effectively.

We hope you'll be able to join us. Register soon to reserve your virtual seat.

~ Rebecca J. Francis, Esq. of Microsoft and
Nicola Menaldo, Esq. of Perkins Coie, Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$995 with a group rate of \$895 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$745. For students, people in their job for less than a year, and public interest NGO's, our rate is \$497.50. All rates include admission to all program sessions and course materials.

Make checks payable to Law Seminars International.

As an added value bonus, you'll receive access to audio and video recordings of the program at no extra charge.

Financial aid is available to those who qualify. Contact our office for more information.

Substitution & Cancellation: You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00 p.m. on Friday, October 15, 2021. After that time, we will credit your tuition toward attendance at another program or the purchase of an audio or video replay.

Continuing Education Credit: Live credits: This program qualifies for 11.25 (1 Ethics included) CA and 11.00 (1 Ethics included) WA MCLE credits. Upon request, we will help you apply for CLE credits in other states and other types of credits.

Time Shift Your Content: Audio and video replay files, with course materials, are available for download or on a flash drive at the same price as live attendance. Files are available for downloading five business days after the program or from the date we receive payment. Flashdrive orders are sent via First Class mail within seven business days after the program or from the date we receive payment. The course materials alone are available for \$100.

Faculty

Rebecca J. Francis, Program Co-Chair, is a Senior Attorney at Microsoft. Her expertise includes complex civil litigation with an emphasis on consumer class action defense and healthcare litigation.

Nicola Menaldo, Program Co-Chair, is a partner at Perkins Coie. She defends technology companies on issues including privacy and data security, marketing, biometrics, scraping and web crawling, artificial intelligence (AI) and machine learning.

Sunita Bali is a partner at Perkins Coie and represents technology, food, and retail clients in consumer class action disputes and other complex commercial litigation matters. She also advises internet and telecommunication service providers on compliance with federal and state laws regarding the privacy of user information, including the Stored Communications Act.

F. Paul Bland, Jr. is Executive Director of Public Justice, overseeing its advocacy and litigation of consumer, environmental and civil rights cases, and other operations. He successfully argued before the Supreme Court in *Home Depot, U.S.A. v. Jackson*, 139 S. Ct. 1743 (2019) (neither the general removal statute nor the Class Action Fairness Act permits removal to federal court by a third-party counterclaim defendant).

Timothy G. Blood, Blood Hurst & O'Reardon, is the firm's managing partner. He focuses on complex litigation, including class action litigation, and is highly regarded in the field of consumer protection law, including California's Unfair Competition Law and Consumers Legal Remedies Act.

Fred B. Burnside is a partner at Davis Wright Tremaine and serves as the co-chair of the class action defense group. He concentrates his complex civil litigation practice on matters related to class-action defense and consumer financial services. He has the rare experience of taking a financial services class action through a jury trial.

Charles B. Casper is chair of the class action defense practice at Montgomery McCracken Walker & Rhoads. Since 1993, he has served as class action counsel to Microsoft Corporation in class actions in federal and state courts across the country, including consumer and indirect-purchaser antitrust class actions.

The Hon. Ronald E. Cox Judge (Ret.), JAMS ADR, had more than 23 years of service on the Washington State Court of Appeals. During his tenure on the court, he served as Presiding Chief Judge of the entire court. He also served a separate time as Chief Judge of Division One, which is headquartered in Seattle.

Daniel J. Dunne, Jr. is a partner at Orrick Herrington & Sutcliffe and a member of the Securities Litigation, Investigations and Enforcement Group. He focuses on defense of financial institutions, corporations, directors and officers, and accountants in complex litigation in federal and state courts. He has also been a key part of the winning Orrick team, leading the defense of Credit Suisse against an avalanche of litigation related to claims involving residential mortgage-backed securities (RMBS).

Jay Edelson is the founder and CEO of Edelson PC. He is considered one of the nation's leading plaintiff's lawyers and has been appointed to represent state and local regulators on some of the largest issues of the day, ranging from opioids suits against pharmaceutical companies, to environmental actions against polluters, to breaches of trust against energy companies and for-profit hospitals, to privacy suits against Google, Facebook, Uber, Marriott, and Equifax.

Juli Farris is a member of Keller Rohrback's nationally recognized Complex Litigation Group and divides her time between the firm's Seattle and Santa Barbara offices. Her current cases include serving as co-lead counsel representing victims of the 2015 Refugio California Oil Spill and representing patients affected by prescription drug overcharges. She is also part of the team pursuing claims to hold drug manufacturers accountable for the current opioid health crisis.

Michael J. Holecek is a partner in the Los Angeles office of Gibson, Dunn & Crutcher, where his practice focuses on complex commercial litigation, class actions, and labor and employment law. He has advised clients on drafting arbitration agreements, successfully litigated dozens of motions to compel arbitration, and has represented clients in hundreds of arbitration proceedings.

Michael Kheyfets, a partner at Edgeworth Economics, is a professional economist who provides his clients with economic research and rigorous data analysis in litigation, regulatory, and business analytics matters. This includes developing expert testimony on class certification, liability, and damages issues.

David J. Ko is a partner at Keller Rohrback where he represents plaintiffs in federal and state courts across the country in a wide variety of cases involving corporate wrongdoing. He is one of the lead attorneys in the MDL In re: Facebook, Inc. Consumer Privacy User Profile Litigation, arising out of the Cambridge Analytica scandal and Facebook's disclosure of user information to third parties without their consent.

Derek W. Loeser is a senior partner at Keller Rohrback and a member of the firm's Executive Committee. He leads the Keller Rohrback team litigating government cases against opioid manufacturers and distributors in the In re National Prescription Opiate Litigation. He also represents school districts and counties in litigation against the e-cigarette company, JUUL, for targeting and addicting youth.

Thomas E. Loeser is a partner at Hagens Berman Sobol Shapiro. A former Assistant United States Attorney, he represents plaintiffs in highly complex class actions involving computing and software, and matters where both civil and criminal investigations are involved.

Toby Marshall is a founding member of Terrell Marshall Law Group where he represents plaintiffs in class actions, collective actions, and other complex litigation. He has represented employees in a variety of wage and hour lawsuits and, as a member of the Washington Employment Lawyers Association, has authored many amicus briefs that have helped advance the rights of workers.

The Hon. Layn R. Phillips, Judge (ret.), is the founder of Phillips ADR Enterprises. He is both a former United States Attorney and a former United States District Judge. He also sat by designation on the United States Court of Appeals for the Tenth Circuit in Denver, Colorado, where he participated in numerous panel decisions and published multiple opinions.

Stephen M. Rummage is a partner at Davis Wright Tremaine and represents clients in complex litigation and appeals, with an emphasis on commercial litigation and class action defense. In addition to his trial practice, He has argued dozens of appeals in state and federal courts, including high-profile cases that established Washington and federal law on issues ranging from class action procedure to securities to land use.

Ashley M. Simonsen, a partner at Covington & Burling, is a litigator whose practice focuses on defending complex class actions in state and federal court. She has successfully represented clients in the financial services, consumer brands, technology, and sports industries through all stages of litigation, including trial, with a strong track record of success on early dispositive motions.

William (Ben) Stafford is a partner at Perkins Coie. He has extensive experience defending complex wage-and-hour class action cases for clients including The Boeing Company, Comcast, OfficeMax, and Les Schwab. Ben's experience extends to all aspects of such cases, including managing electronic discovery, defeating class certification, taking a case to trial, and appellate practice.

Kim D. Stephens, Tousley Brain Stephens, has a broad range of experience litigating condemnation, environmental, construction, products liability, and securities matters. He also has been appointed Special Attorney General for Washington State and lead counsel to manage both state and federal, multi-district class actions.

Alexander Tievsky is a partner at Edelson PC. He represents consumers and government entities in complex cases where the law is still catching up to today's challenges. Recently, he represented consumers who collectively lost hundreds of millions of dollars wagering at so-called "free-to-play" app-based casinos.

The Hon. Rebecca Westerfield has been a full-time mediator and arbitrator since 1992 and is a founding member of JAMS. She has mediated thousands of domestic and cross-border cases, including complex class action matters involving products liability, employment, and consumer litigation, and has served as special master overseeing allocation of settlement funds. She is also an elected Fellow of the College of Commercial Arbitrators.