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The Eighth Annual Comprehensive Conference on

Litigating Class Actions

The new landscape after a big year in the Supreme Court

May 14 & 15, 2012

Seattle, Washington

Washington State Convention Center

Credits: WA 13.25 CLE (includes 1 ethics) (call about others)

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Litigating Class Actions Conference

May 14 & 15, 2012 | Seattle, Washington
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8:00 Registration and Continental Breakfast

8:30 Introduction to Day One

Thomas L. Boeder, Esq., Program Co-Chair
Perkins Coie LLP ~ Seattle, WA

Timothy G. Fielden, Esq.
Associate General Counsel, Program Co-Chair
Microsoft Corporation ~ Redmond, WA

8:45 National Class Action Trends

Federal Circuit Class Certification Rulings: Strategies and Arguments for winning or defeating class certifications

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

9:45 California 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.
BraunHagey & Borden LLP ~ San Francisco, CA

10:45 Break: Coffee, Tea, and Conversation

11:00 How Much Has the Supreme Court Decision in *Dukes v. Wal-Mart* Changed the Class Action Landscape?

Plaintiff's perspective

Jonathan D. Selbin, Esq.
Lieff Cabraser Heimann & Bernstein, LLP ~ New York, NY

Defendant's perspective

James W. Michalski, Esq.
Holland & Knight LLP ~ Los Angeles, CA

12:15 Lunch (on your own)

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1:30 Tracking Locations and Clicks for Feeding Ads: Internet Privacy Class Actions

Plaintiff and defendant perspectives on activities and claims

Scott A. Kamber, Esq.
KamberLaw LLC ~ New York, NY

Ian C. Ballon, Esq.
Greenberg Traurig, LLP ~ Santa Monica, CA

2:30 Trends in Securities and Financial Industry Class Actions

What do they suggest for class actions as a regulatory mechanism?

Plaintiff's perspective

Thomas H. Burt, Esq.
Wolf Haldenstein Adler Freeman & Herz LLP ~ New York, NY

Defendant's perspective

Stanley J. Parzen, Esq.
Mayer Brown LLP ~ Chicago, IL

3:30 Break: Soda, Tea, and Conversation

3:45 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

5:15 Continue the Exchange of Ideas: Reception for Faculty and Attendees

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About the Conference



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2011 and early 2012 have been a remarkable period for development of class action law with the Supreme Court's decisions in *Concepcion* and *CompuCredit* applying great deference to arbitration clauses, even where the result is to bar class action claims, and lower courts are developing conflicting interpretations of the impact of these decisions. While these cases, and the Supreme Court decision in *Dukes*, have led some to predict a drastic decline in federal court class actions and a clear shift of such actions to state courts, the volume of class action filings in both state and federal courts continues to be strong with ultimate outcomes uncertain. *Bayer* and *Halliburton* are two other Supreme Court opinions issued in the past year as is the 9th Circuit's recent *Mazza* decision, further contributing to important legal developments in class action law, and are viewed by some as signs that class actions are far from extinct.

~ Program Co-Chairs: Thomas L. Boeder, Esq. of Perkins Coie LLP and Timothy G. Fielden, Esq. of Microsoft Corporation



8:00 Continental Breakfast

8:30 Preparing to File Class Actions

Case investigation and selection of class representatives, including qualifications, disqualifications, conflicts, solicitation; pre-filing preparation, strategies

Kim D. Stephens, Esq.
Tousley Brain Stephens PLLC ~ Seattle, WA

9:15 Watching for Ethical Challenges from the Start of the Case

Recruiting class representatives; communications with absent class members; settlement negotiations; negotiating attorney's fees; candor with the court in class settlements; common fund and statutory fees cases; valuing non-monetary class benefits

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

10:15 Break: Coffee, Tea, and Conversation

10:30 Special Address: What Defendant's Need to Know About the Use of New Media in the Critical First Hours and Days of Filing

You need your lawyers and their skills for the lawsuit--what and who do you need to capture the hearts and minds of the public?

Jason Maloni, Senior Vice President
Levick Strategic Communications ~ Washington, DC

11:15 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

Derek W. Loeser, Esq.
Keller Rohrback LLP ~ Seattle, WA

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

Richard J. Arsenault, Esq.
Neblett, Beard & Arsenault ~ Alexandria, LA

2:30 Arbitration Clauses after AT&T Mobility LLC v. Concepcion

The decision's effect on drafting and enforceability of arbitration agreements; implications for class actions as the dust settles

Alan M. Mansfield, Esq.
Consumer Law Group of California ~ San Diego, CA

Thomas L. Boeder, Esq., Program Co-Chair

3:30 Break: Soda, Tea, and Conversation

3:45 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; consistency with national trends

Beth E. Terrell, Esq.
Terrell Marshall Daudt & Willie PLLC ~ Seattle, WA

Todd L. Nunn, Esq.
K&L Gates LLP ~ Seattle, WA

Douglas D. Walsh, Esq.
Office of the Attorney General of Washington ~ Seattle, WA

5:00 Evaluations and Adjourn

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Faculty: Litigating Class Actions Conference

Thomas L. Boeder, *Program Co-Chair* and partner, Perkins Coie LLP, focuses on antitrust clearance for mergers and acquisitions, class actions, consumer product liability and protection litigation, and intellectual property litigation. He is a former Washington State Deputy Attorney General and Chief of Antitrust. He is listed in *The Best Lawyers in America* and *Super Lawyers*.

Timothy G. Fielden, *Program Co-Chair*, is an Associate General Counsel in Legal and Corporate Affairs at Microsoft Corporation, where he represents them in class action, products liability, and commercial litigation. He oversees outside counsel and collaborates in trial and appellate courts throughout the United States, Asia, Canada, and Europe and is named in *Super Lawyers*.

Richard J. Arsenault, partner, Neblett, Beard, and Arsenault, has been appointed to many steering committees nationwide. Recently he has been a lead negotiator in litigation related recoveries, and is a faculty member for LSU Law School's Trial Advocacy Program. He is named in *Super Lawyers* and *Best Lawyers in America*.

Ian C. Ballon, shareholder with Greenberg Traurig, LLP, focuses on privacy and other Internet, IP and technology cases. He wrote E-Commerce and Internet Law: Treatise with Forms 2d edition and is the Executive Director of Stanford University's Center for E-Commerce. He is named in *Super Lawyers* and one of the 100 Most Influential Lawyers in California.

Steve W. Berman, founder and managing partner of Hagens Berman Sobol Shapiro LLP, is counsel in securities, consumer, products liability, anti-trust and employment class actions. *The National Law Journal* names him "one of the top 100 attorneys in the United States" and is listed in *Super Lawyers*.

Fred B. Burnside, partner, Davis Wright Tremaine LLP, Co-Chair with Class Action Defense Group, concentrates on civil litigation with emphasis on consumer class action defense. He is co-chair of the ABA's Consumer Law Subcommittee on Class and Derivative Suits.

Thomas H. Burt is a partner as Wolf Haldenstein Adler Freeman & Herz LLP whose primary practice is plaintiffs' class action litigation. His securities litigation includes In re Initial Public Offering Securities Litigation and *Freeland v. Iridium World Communications Ltd.*

Charles B. Casper, partner at Montgomery, McCracken, Walker and Rhoads, LLP, defends nation- and state-wide class actions, as well as computer software and hardware, commercial and antitrust litigation. He is named in

Super Lawyers and, since 1993, he has been national class action counsel to Microsoft Corporation.

Todd F. Jackson, shareholder, Lewis, Feinberg, Lee, Renaker & Jackson, P.C., represents groups of employees in pension, wage and hour and employment discrimination cases. He has written articles on ERISA fiduciary rules and wage and hour litigation and is named in *Super Lawyers*.

Brady R. Johnson, Senior Counsel at Washington State Attorney General's Antitrust Division, which enforces the antitrust provisions of Washington's Unfair Business Practices-Consumer Protection Act, brings actions in federal court and investigates complaints about anti-competitive activity.

Scott A. Kamber, founding member, KamberLaw, LLC, is experienced in cases setting precedents for Internet privacy rights, data breach liability, responsibilities for growers of genetically modified foods, digital rights management, and shareholder rights.

Philip A. Leider, BraunHagey & Borden LLP, litigates civil matters in state and federal courts, with an emphasis on consumer class actions. He writes and speaks about developments in the law of false advertising and unfair competition, including California's Code Section 17200.

Derek W. Loeser, with Keller Rohrback's nationally recognized Complex Litigation Group, focuses on ERISA, securities fraud, employment, and consumer protection class action litigation. He is listed with *Super Lawyers* and was a trial attorney for United States Department of Justice where he prosecuted class action employment discrimination cases.

Patrick M. Madden, partner at K&L Gates LLP and co-chair of their labor and employment practice group, advises on wage and hour compliance and compensation plan design, assists in responding to agency investigations, and represents employers in wage and hour and other class, collective, and enforcement actions. He is listed as a top labor and employment attorney in *The Best Lawyers in America*.

Jason Maloni, Senior Vice President and Chair in the Litigation Practice with Levick Strategic Communications, directs marketing efforts, and crisis communications interventions. His clients include manufacturing, energy, transportation, pharmaceutical, agriculture, and food-processing companies.

Alan M. Mansfield, founder of the Consumer Law Group of California, has specialized in the area of national consumer class action and public interest litigation since 1991, focusing on telecommunications, health care and consumer

privacy issues. He is the current editor of the ABTL Report.

James W. Michalski, senior counsel, Holland & Knight LLP, is listed in *Super Lawyers*. He represents management in business and employment for a diverse clientele 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, K&L Gates, focuses on class action defense and electronic discovery, including defense of breach of contract and consumer protection class actions. He is Co-Editor and Author of *State Class Actions: Practice and Procedure*. He is a member of the Washington State Bar Association Court Rules and Procedures Committee.

Stanley J. Parzen, partner at Mayer Brown LLP, focuses on litigation in arbitration, including trials and appeals, defending accounting firms and other professionals including representing accounting firms and a coordinating entity in federal and state regulatory bodies. He is listed in *Super Lawyers*.

Stephen M. Rummage, partner at Davis Wright Tremaine LLP, has defended consumer class actions, securities fraud claims, right of publicity actions, contract disputes and construction. He was selected as a *Top 100 Washington Super Lawyers* and *Best Lawyers in America*.

Jonathan D. Selbin, partner, Lief 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 and is a *Super Lawyer*.

Kim D. Stephens, Tousley Brain Stephens PLLC, focuses his practice on commercial, class action and condemnation litigation. He is a *Super Lawyer*, fellow of the American Academy of Trial Counsel, designated as one of the *Best Lawyers in America* by *US News and World Reports*, as well as the *Best Lawyers in Washington* by *Seattle Metropolitan Magazine* and the *Puget Sound Business Journal*.

Beth E. Terrell, member, Terrell Marshall Daudt & Willie PLLC, focuses on 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 and is recognized as a *Super Lawyer*.

Douglas D. Walsh is chief of the Consumer Protection Division of the Washington State Attorney General's office. He has devoted much of his career to fostering a fair and competitive marketplace for consumers and businesses, particularly in the area of deceptive auto sales practices.

May 14 & 15, 2012
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Who Should Attend:

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

You Will Learn About:

- Class action landscape changes after *Dukes v. Wal-Mart*
- Recent decisions effects on drafting and enforceability of arbitration agreements
- California Section 17200 update
- Trends in securities and financial industry class actions
- Internet privacy class actions
- Preparing to file class actions
- Best current strategies and arguments for winning or defeating class certifications
- Post-certification motion issues in class actions
- Dealing with parallel government investigations
- Developing trial strategies and approaches
- A case study of Washington state consumer protection class action
- What defendant's need to know about new media
- Ethical issues

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