

The American Bar Association
Section of Litigation and the
Center for Continuing Legal Education
Present

The 8th Annual National Institute on

Class Actions

October 15, 2004

The Plaza Hotel
New York, NY

October 29, 2004

Hilton Riverside New Orleans
New Orleans, LA



**Don't Miss the TeleConference LIVE from our
October 29th program.** *See the Program Agenda for details.*

6.83 hours of MCLE credit, including 1.0 hour of Ethics credit, have been requested in 60-minute states and 8.20 hours of MCLE credit, including 1.2 hours of Ethics credit, have been requested in 50-minute states.

Highlights of This Program

Come to This Program If You Want to...

- Stay up-to-date on the latest developments in class actions including recent case law, class arbitration, removal and class action alternatives.
- Stay on top of the newest issues forming on the state class action front.
- Understand the current ground rules on communicating with members of a class.
- Get more bang for your CLE buck—lots of credit hours and sophisticated instruction from leading experts.

Who Should Attend?

- **Seasoned litigators** needing an update on recent decisions in this active area.
- **Litigators** who want an in-depth analysis of class action issues, not a superficial overview.
- **Counsel** who want to stay ahead of the curve on the latest techniques for litigating mass claims.
- **Litigators** who must know the ethical prescriptions concerning communications with members of a class.
- **Lawyers** who need CLE credits and want their time to be well spent

What Past Participants Have Said ...

“A lively, stimulating discussion on a topical issue for many lawyers—well done!”

—**James D. Pagliaro**, *Morgan, Lewis & Bockius LLP*

“Up-to-the-minute information on trends and strategies from experts in the area.”

—**Alesia Holliday**, *Williams Kastner & Gibbs LLC*

“Excellent materials and speakers.”

—**Linda Perez Clark**, *Breazeale, Sachse & Wilson*

“An excellent treatment of all aspects of class action procedure—from the ‘nuts and bolts’ to the ‘cutting edge’.”

—**C. Dennis Hughes**, *London & Yanley LLC*

SPONSORS

This National Institute is presented by the Class Actions and Derivative Suits Committee, the Mass Torts Committee and the Products Liability Committee of the ABA Section of Litigation.

If you are a member of the Section of Litigation, you may join these Committees online by visiting www.abanet.org/litigation/committee/join.html

The Section of Litigation and the ABA Center for CLE join in thanking Todd B. Hilsee and Hilsoft Notifications, and Analytics, Inc. for their generous support of this National Institute.

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the Section of Litigation and ABA-CLE:



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Program Agenda

8:00 Registration and Continental Breakfast

9:00 Welcoming Remarks
John B. Isbister

9:10 New Developments in Class Action Law
Prof. John C. Coffee, Jr.

10:15 To Remove or Not to Remove

As highlighted by the ongoing debate in Congress, choice of forum is a critical strategic issue in many class actions. Our experts will discuss recent cases and current strategies for removing class actions to federal court—and resisting removal—with emphasis on the impact of supplemental federal jurisdiction and how the courts value demands for medical monitoring, injunctive relief, disgorgement and other group remedies in the context of the amount-in-controversy requirement.

Moderator: **New York**
Mary Catherine Roper Hon. Jed S. Rakoff

New Orleans
Prof. Edward F. Sherman

10:45 Break

11:00 Crossing the State Line: State Law Class Actions

State law class actions have become an increasingly important feature on the class action landscape. Our panel will explore jurisdiction, choice of law, manageability, and other legal and practical issues that arise when state law claims are asserted on behalf of a statewide or multi-state class.

Moderator: **New York**
Deana S. Peck Hon. Marina Corodemus
Jeffrey J. Greenbaum
Seth R. Lesser
Prof. Linda S. Mullenix

New Orleans
Hon. James T. Genovese
Edward B. Adams
Stephen Gardner
Prof. Linda S. Mullenix

Don't Miss the LIVE TeleConference
broadcast from this session in
New Orleans on October 29th. See
the registration form for details.

12:30 Luncheon Speaker: The Federal Trade Commission's Class Action Fairness Project

New York – Elaine D. Kolish Associate Director for Enforcement, Federal Trade Commission

New Orleans – Robert M. Frisby Assistant Director, Division of Enforcement, Federal Trade Commission

2:00 Let's Talk—The Ethical and Practical Issues of Communicating with Members of a Class

Ethical prescriptions, the rules of procedure, commentary in the new Manual for Complex Litigation, and recent decisions limit communications that plaintiffs' and defense counsel may have with members or potential members of a class. The panel will provide guidance on ex parte communications with the class, judicial limits on communications with the class, and pre- and post-certification communications with the class under Rule 23 including class notice and communications issues that require notice expertise.

Moderator: **New York**
John B. Isbister Diane Green-Kelly
Todd B. Hilsee
Morris A. Ratner

New Orleans
Scott J. Atlas
Dawn M. Barrios
Todd B. Hilsee

3:00 Break

3:15 Mass But Not Class?

The panel will explore the strategic advantages and drawbacks, and particularly the preclusive effect, of alternative aggregation procedures, including collective or opt-in actions, consolidation under federal Rule 42 or state equivalents, coordination through the federal MDL process, private attorney general actions under section 17200 of the California Business and Professions Code and other states' "Little FTC Act" statutes, and issues-only classes under Rule 23(c)(4).

Moderator: **New York**
Dinita L. James Elizabeth J. Cabraser
Prof. Samuel Issacharoff
Jose P. Sierra

New Orleans
Elizabeth J. Cabraser
Prof. Samuel Issacharoff
Ronald J. Sholes

4:15 How to Arbitrate a Class Action—Or Not

Whether arbitration clauses in consumer, employment, and investment agreements preclude class actions is a white-hot issue for courts, lawyers, and arbitration organizations. This panel will look at how arbitration agreements are drafted to bar class actions, whether such agreements violate public policy, whether class actions can or should be arbitrated, and how to proceed if a class action is referred to arbitration.

Moderator: **New York**
Scott L. Nelson Alan S. Kaplinsky
Prof. Nina Pillard
John M. Townsend

New Orleans
Alan S. Kaplinsky
Prof. Jean Sternlight
Eric P. Tuchmann

5:15 Adjourn

Program Information

PROGRAM TUITION

Attend the entire program, the luncheon, the breakfast, network with other registrants and faculty, and pay *only*...

- **\$575** for the General Public
- **\$450** for ABA Members (*\$125 Savings*)
- **\$325** for Section of Litigation Members (*\$250 Savings*)

Become a member of the Section of Litigation for \$45 and save on this Institute.

In addition to receiving the written course materials, attendees will receive the 2004 version of the Survey of State Class Action Law, a **\$60 value**.

GROUP AND OTHER DISCOUNTS

Register three or more people at the same time to receive an additional \$50 reduction on each program tuition! Larger group discounts and special rates for full-time law students, academics, and government employees are also available. For more information contact Ninah Smith at 312.988.6209.

Every registrant will receive a copy of the informative course materials book and the Survey of State Class Action Law. Both can be used as comprehensive resources long after the program is held. Each registrant also will be eligible for MCLE accreditation in those states that require continuing legal education.

MCLE

Mandatory Continuing Legal Education (MCLE) accreditation has been requested from all states that require continuing legal education. **6.83** hours, including **1.0** hour of Ethics credit have been requested from states that recognize a 60-minute credit hour; and **8.2** hours, including **1.2** hours of Ethics credit from those states granting credit hours on a 50-minute basis.

For NY-licensed attorneys: This transitional CLE program has been approved for all NY-licensed attorneys in accordance with the requirements of the New York State CLE Board for New York MCLE (**6.0** total NY MCLE credits).

If you have questions regarding MCLE application and approval, please contact the ABA MCLE Unit at 312.988.6217.

SCHOLARSHIPS

Scholarships to defray tuition expense for National Institutes are available upon application. Preference will be given to public interest lawyers, government lawyers, and law professors. For more information contact Ninah Smith at 312.988.6209. Scholarship applications must be received in the ABA offices no later than thirty days prior to the program.

SERVICES FOR PERSONS WITH DISABILITIES

If special arrangements are required, please contact Nadine McIntyre at 312.988.6199. Reasonable advance notice is requested.

IN-PERSON REGISTRATION

If you plan to register in person please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will **not** be accepted.

CANCELLATIONS

Refund requests for National Institute presentations will be honored on the following basis:

<i>Day of Cancellation*</i>	<i>Amount of Refund</i>
8 business days or more	100% Refund
4 to 7 business days	100% Refund <i>minus \$50 administrative fee</i>
**3 business days or less	No Refund

****“Day of Cancellation”** is the day the cancellation is received, by telephone or in writing, by the ABA. It is calculated based on ABA business days remaining before the National Institute presentation for which registered. Written confirmation of refund requests must be received within 14 days following the

Program Information

National Institute presentation. Substitute registrants are welcome.

** No refund will be made for cancellations received after this time.

PROGRAM CONFIRMATION

Written confirmation of your registration will be sent to you upon receipt. Please bring it with you to the National Institute as proof of registration. If you do not receive the confirmation notice prior to the presentation, please call the ABA at least 24 hours in advance to confirm that your registration was received and that the program is being held as scheduled.

HOTEL INFORMATION

New York - October 15, 2004

The Plaza Hotel

New York, NY

P 800.441.1414

F 212.759.3167

Rate: \$369.00 single/double

New Orleans, LA - October 29, 2004

Hilton Riverside New Orleans

New Orleans, LA

P 504.561.0500

F 504.584.3979

Rate: \$169.00 single/double

All room rates are subject to city occupancy and sales tax. One night's deposit required for reservation. Unclaimed rooms will be released twenty-one days before the program, after which the hotel will accept reservations on a space-available basis. **Mention this ABA meeting to receive the special discounted rate.**

AIRLINE INFORMATION

The ABA has secured discounted rates with American, Delta, and US Airways for all National Institute participants. Make your reservations early and for additional airline information call:

American Airlines

800.433.1790

ABA Code: 16666

Delta Airlines

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ABA Code: 189419A

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ABA SECTION OF LITIGATION

Join this dynamic section when registering for this program, at the cost of **\$45** over regular ABA membership, and save up to **\$250** on this program's tuition.

STANDING COMMITTEE ON CONTINUING LEGAL EDUCATION

Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Continuing Legal Education administers and produces National Institutes, VideoLaw Seminars, Satellite Seminars, TeleConferences, other technology-based offerings, and written Course Materials to assist lawyers' continuing legal education efforts.

R. Clark Wadlow, Chair, *Sidley Austin Brown & Wood LLP*, Washington, DC

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Registration and Order Form

Class Actions

I will be attending:

- October 15, 2004** = New York
- October 29, 2004** = New Orleans

\$575 General Public

\$450 ABA Member (*\$125 Savings*)

ABA # _____

\$325 Section of Litigation Member
(*\$250 Savings*)

ABA # _____

Two or more people have registered with me. Please apply the \$50 tuition reduction to my tuition rate indicated above.

Teleconference LIVE from New Orleans — October 29th

Crossing the State Line:

State Law Class Actions

\$65 Section of Litigation Members

\$125 ABA Members

\$150 All Other Registrants

\$60 Additional Registrants on the same phone line

*States not accrediting ABA Teleconferences:
DE, IN, PA, KS, OH*

PRODUCT ORDER FORM

Send me the **Class Actions AudioCD Package N04CACC** (CD and course materials) available within two weeks following the program at the special price of \$575, plus \$24.95 for domestic shipping and handling*. (**\$525 if ordered by October 15, 2004 - Early Bird**)

Send me the **Class Actions Audiotape Package N04CACA** (tapes and course materials) available within two weeks following the program at the special price of \$575, plus \$24.95 for domestic shipping and handling. (**\$525 if ordered by October 15, 2004 - Early Bird**)

Send me the **Class Actions Course Materials N04CACB** at the special prepublication price of \$150, plus \$17.95 for domestic shipping and handling.

District of Columbia residents add 6% use tax, Illinois residents add 8.75% sales tax, and Maryland residents add 5% sales tax, before including domestic shipping and handling charges. Price is subject to change after 10/15/2004.
*Shipping and handling charges subject to change without notice.

Send me the ABA-CLE product catalog.

Send me the ABA-CLE calendar for upcoming events.

ABA MEMBERSHIP

I am interested in becoming a member of the American Bar Association. Please send me information and membership forms.

I am an ABA Member, but want a further reduction on my tuition for this program. Please enroll me in the Section of Litigation. I've enclosed a separate check for **\$45**.

TO REGISTER AND ORDER:

 **Phone 800.285.2221 Select Option 2 or 312.988.5522** (credit card only)

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Join us for an interactive
TeleConference

Crossing the State
Line: State Law
Class Actions

Friday, October 29, 2004
12:00 pm–1:30 pm
Eastern Time

To register or for additional
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