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TORTS COMMITTEES UNITING PLAINTIFF, DEFENSE,
INSURANCE, AND CORPORATE COUNSEL TO ADVANCE
THE CIVIL JUSTICE SYSTEM



**AMERICAN BAR ASSOCIATION
CLASS ACTION LITIGATION
IN AMERICA –
A NATIONAL
SYMPOSIUM**

MARCH 10-11, 2016

**SHERATON NEW ORLEANS HOTEL
NEW ORLEANS, LA**

**FEATURING
CORPORATE
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REPRESENTATIVES
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AMERICAN BAR ASSOCIATION



WELCOME

More than a decade after Congress passed the Class Action Fairness Act, and a series of Supreme Court decisions that threatened to substantially limit class actions, a recent survey of general counsel predicted that US companies will spend over \$2 billion in legal fees defending these cases in 2016. Untold billions will be paid in settlements and judgments. This comprehensive program is designed for practitioners, in-house counsel, and insurance, claims and risk management personnel and provides a national forum to learn from experts, and an opportunity to meet, network, and exchange ideas with thought leaders in this dynamic field. The symposium consists of nationally prominent litigators from both sides of the class action fence, leading scholars, seasoned jurists, mediators and insurers who will discuss recent case law developments, emerging trends, risk management issues, case management techniques, pre and post-certification strategies, arbitration and the ethical considerations in resolving these high profile and costly litigations.

We are fortunate to have as our keynote speaker Professor John Coffee of Columbia University School of Law, an author and frequent lecturer on class action practice, who will provide an overview and analysis of the most significant cases of the past year.

Sponsored by the Tort Trial & Insurance Practice Section Business Litigation Committee, and held at the completely renovated Sheridan New Orleans Hotel, this cutting-edge program provides a perfect opportunity to learn and share against the backdrop of the "Big Easy's" rich culture, cuisine and attractions.

Steven P. Benenson, Esq., Program Chair

Porzio Bromberg & Newman PC
Morristown, NJ

Planning Committee

Roy Alan Cohen, Esq.
Planning Committee Chair
*Porzio Bromberg &
Newman PC*
Morristown, NJ

Amir Nassihi, Esq.
Shook, Hardy & Bacon
San Francisco, CA

Marcy Hogan Greer, Esq.
*Alexander Dubose
Jefferson & Townsend LLP*
Austin, TX

Adam J. Levitt
Grant & Eisenhofer
Chicago, IL

Eric Gibbs, Esq.
Girard Gibbs
Oakland, CA





PROGRAM AGENDA

THURSDAY, MARCH 10, 2016

7:00 A.M. – 5:30 P.M.

REGISTRATION

7:00 A.M. – 9:00 A.M.

CONTINENTAL BREAKFAST

8:00 A.M. – 8:15 A.M.

PROGRAM INTRODUCTION

Steven P. Benenson, Program Chair, *Porzio Bromberg & Newman PC*, Morristown, NJ

G. Glennon Troublefield, TIPS Section Chair, *Carella Byrne et al*, Roseland, NJ

8:15 A.M. – 8:45 A.M.

“STATE OF THE UNION FOR CLASS ACTION LITIGATION”

How have the courts balanced the important role that plaintiffs’ counsel play as “private attorneys-general” to punish and deter corporate misconduct against the potential for abuse caused by strike suits, collusion, and overreaching? What are the lessons of recent cases on standing, adequacy of representation, class definition, common damages, and settlements? Professor Coffee, a leading scholar on class actions, and the author of the recently published book *Entrepreneurial Litigation: Its Rise, Fall, and Future*, discusses these trends.

Professor John C. Coffee, *Columbia University Law School*, New York, NY

8:45 A.M. – 9:45 A.M.

THE KEY DEVELOPMENTS IN PRODUCTS LIABILITY CLASS ACTIONS

These seasoned class action litigators and in-house counsel will address the key developments in class action litigation affecting product manufacturers.

MODERATOR:

Amir Nassihi, Esq., *Shook, Hardy & Bacon*, San Francisco, CA

SPEAKERS:

Holly Pauling Smith, Esq., *Shook, Hardy & Bacon*, Kansas City, MO

Eric Smith, Senior Counsel, *Nissan North America, Inc.*, Nashville, TN

Jim Oliva, Senior Counsel, *Honda North America, Inc.*, Torrance, CA

9:45 A.M. – 10:00 A.M.

BREAK

10:00 A.M. – 11:00 A.M.

MANAGING CLASS ACTIONS FROM THE PERSPECTIVE OF IN-HOUSE COUNSEL

Class actions present a unique challenge for companies in terms of managing public and investor relations, financial and business-client reporting, retaining lead counsel, handling insurance coverage issues, containing costs, and minimizing business disruptions. This panel of in-house counsel discuss these and other related topics.

MODERATOR:

Steven P. Benenson, Esq., *Porzio, Bromberg & Newman, P.C.*, Morristown, NJ

SPEAKERS:

John C. Childs, Chief Litigation Counsel, *Georgia Pacific Corporation*, Atlanta, GA

Nancy M. Rogers, 1st VP, Deputy Chief Claims Counsel, *Old Republic National Title Insurance Co.*, Tampa, FL

Chad Helin, General Counsel, *Combined Insurance Co. of America*, Chicago, IL

Michelangelo Troisi, Vice President & General Counsel, *Haier America*, Wayne, NJ



11:00 A.M. – 12:00 P.M.

VIEW FROM THE BENCH AND BAR

This panel will provide unique insights and observations from trial attorneys, the bench and a leading authority on complex litigation on dealing with the role of subclasses, bifurcation and bellwether trials as case management devices for structuring class actions, addressing predominance concerns and establishing claim valuations.

MODERATOR: **Lance Williams, Esq.,** *McCranie, Sistrunk, Anzelmo, Hardy, Covington, LA*

SPEAKERS: **The Honorable Eldon E. Fallon,** *United States District Court for the Eastern District of Louisiana, New Orleans, LA*

Professor Edward Sherman, *Tulane University, New Orleans, LA*

Pat Pendley, Esq., *Pendley, Baudin & Coffin, LLP, Plaquemine, LA*

12:00 P.M. – 1:30 P.M.

LUNCH ON YOUR OWN

1:30 P.M. – 2:30 P.M.

BEYOND RULE 23 CHALLENGES TO CLASS ACTIONS

This presentation will explore strategies for challenging and defending against attacks on class actions outside of the Rule 23 context, including issues surrounding class member standing, ascertainability, over-breath, and other class definition deficiencies, as well as extensive and expensive pre-certification merits discovery, including constitutional challenges, interlocutory appeals and other appellate review.

MODERATOR: **Marcy Hogan Greer, Esq.,** *Alexander Dubose Jefferson & Townsend LLP, Austin, TX*

SPEAKERS: **Tanya Pierce, Associate Professor of Law,** *Texas A&M School of Law, Fort Worth, TX*

Thomas A. Casey, Jr., Esq., *Jones Walker, New Orleans, LA*

Roland Tellis, Esq., *Baron Budd, Los Angeles, CA*

2:30 P.M. – 3:30 P.M.

WHAT'S ON THE HORIZON: EMERGING CLASS ACTION TRENDS

This panel of nationally-known practitioners from both sides of the bar, as well as in-house counsel, will discuss the current “lay of the land” and trends in class action litigation, including the impact of recent court decisions and agency pronouncements, pending cases and proposed legislation, and the prospective procedural and substantive effects of these events on the evolving class action litigation landscape.

MODERATOR: **Adam J. Levitt, Esq.,** *Grant & Eisenhofer, Chicago, IL*

SPEAKERS: **Rich Otera, General Counsel,** *Sumitomo Electrical Industries, Ltd., Los Angeles, CA*

Mark S. Mester, Esq., *Latham & Watkins, Chicago, IL*

Timothy G. Blood, Esq., *Blood Hurst & O'Reardon, San Diego, CA*

3:30 P.M. – 3:45 P.M.

BREAK



3:45 P.M. – 4:45 P.M.

CERTIFICATION THROUGH STATISTICAL SAMPLING IN NO INJURY CLASS ACTIONS

In what some have called a potential “blockbuster” case in the current Supreme Court term – *Tyson Foods, Inc. v. Bouaphakeo, et al.* – the Court is expected to decide two important issues in this Fair Labor Standards Act wage-hour class action involving collective claims and parallel state-law claims certified under Fed. R. Civ. P. 23: (1) Whether a class may be certified where liability and damages will be determined with statistical sampling techniques; and (2) Whether a class/collective action may be certified or maintained where the class contains hundreds of uninjured members unless there is a mechanism to identify and remove such class members? This panel will include lead defense counsel in the case and others who have focused on this issue in recent years.

MODERATOR:

Michael Mueller, Esq., *Hunton & Williams, LLP, Washington, DC*

SPEAKERS:

The Honorable Lee Rosenthal, *United States District Court for the Southern District of Texas, Houston, TX*

Paul T. Kirchner, VP and Associate General Counsel, *Tyson Foods, Inc., Springdale, AR*

Elizabeth Cabraser, Esq., *Lieff Cabraser Heimann & Bernstein, LLP, San Francisco, CA*

4:45 P.M. – 6:00 P.M.

ARBITRATION OF CLASS CLAIMS AFTER CONCEPCION AND ITALIAN COLORS

In *AT&T Mobility v. Concepcion* and *American Express v. Italian Colors*, the Supreme Court held that state laws that rendered waivers of class claims unenforceable violated the Federal Arbitration Act (“FAA”), and that the FAA does not permit courts to invalidate a contractual waiver of class arbitration on the ground that the plaintiff’s cost of individually arbitrating a federal statutory claim exceeds the potential recovery. The panel will discuss the state of the law in the wake of these landmark decisions, and explore some of the vexing questions they raise for class action lawyers: Is arbitration a suitable vehicle for adjudicating class claims? Does the court or arbitrator decide the threshold question of whether an arbitration clause requires individual or class proceedings? Are such decisions subject to interlocutory review? What are the standards for appealing adverse arbitration awards? Can arbitration clauses be drafted in order to avoid class action arbitration altogether?

CO-MODERATORS:

Eric Mattson, Esq., *Sidley Austin LLP, Chicago, IL*

SPEAKERS:

Professor Martin H. Redish, *Northwestern School of Law, Chicago, IL*

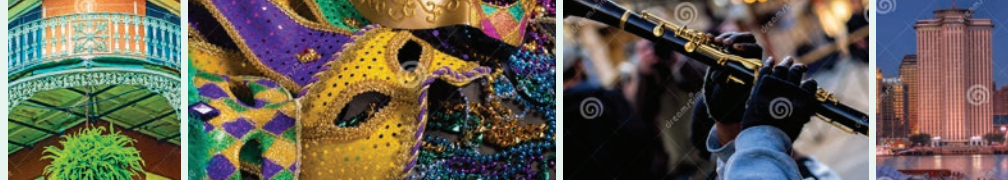
Pamela O’Brien, Chief Litigation Counsel, *Stewart Title Guaranty Company, Houston, TX*

Lori E. Andrus, Esq., *Andrus Anderson, San Francisco, CA*

Wayne J. Lee, Esq., *Stone Pigman, New Orleans, LA*

6:00 P.M. – 7:30 P.M.

NETWORKING RECEPTION – COCKTAILS AND LIGHT HORS D’OUEVRES



FRIDAY, MARCH 11, 2016

8:00 A.M. – 9:30 A.M.

CONTINENTAL BREAKFAST

8:00 A.M. – 8:45 A.M.

COMBINED TIPS COMMITTEE BUSINESS MEETING

This meeting is open to all attendees interested in becoming active in any of the ABA TIPS sponsoring committees:

- Appellate Advocacy
- Business Litigation
- Corporate Counsel
- Products Liability
- Title Insurance
- Toxic Torts

8:45 A.M. – 9:00 A.M.

PROGRAM INTRODUCTION

9:00 A.M. – 10:30 A.M.

POST-CERTIFICATION STRATEGIES

This panel explores successful strategies for summary judgment and decertification motions, conducting expert discovery, and preparing for and presenting the trial of a class action.

MODERATOR: **Scott Elder, Esq.**, *Aston & Bird*, Atlanta, GA

SPEAKERS: **Will Barnette, Assistant General Counsel**, *The Home Depot*, Atlanta, GA

Steven A. Goldfarb, Esq., *Hahn Loeser & Parks*, Cleveland, OH

Elizabeth A. Fegan, Esq., *Hagens Berman Sobol Shapiro LLP*, Chicago, IL

Marygrace J. Schaeffer, VP, *DecisionQuest*, Minneapolis, MN

10:30 A.M. – 12:00 P.M.

ETHICAL CONSIDERATIONS IN SETTLING CLASS ACTIONS

A distinguished panel of class action litigators, in-house counsel and a former federal judge and mediator will discuss ethical issues that arise in developing innovative strategies for settling class actions, including picking off the lead plaintiff, responding to the extortionate demand and the low-ball offer, negotiations following an overly aggressive prosecution or a scorched earth defense, use of the non-class class settlement approach, use of guaranteed forfeiture funds, reverter and *cy pres* provisions, fee negotiations, front-loading the formal final settlement and fee approval process, settlement administration, and post-settlement claims.

MODERATOR: **Eric Gibbs, Esq.**, *Girard Gibbs*, Oakland, CA

SPEAKERS: **Jason Erb, Senior Counsel, Director of Litigation**, *Hyundai Motor America*, Fountain Valley, CA

Honorable Faith Hochberg, *Phillips ADR*, Corona Del Mar, CA

Shon Morgan, Esq., *Quinn Emanuel*, Los Angeles, CA

Michael Mallow, Esq., *Sidley Austin LLP*, Los Angeles, CA

Kelly Dermody, Esq., *Lieff Cabraser Heimann & Bernstein*, San Francisco, CA

Robin Greenwald, Esq., *Weitz & Luxenberg*, New York, NY

12:00 P.M.

CONCLUDING REMARKS

REGISTRATION FORM

ABA TORT TRIAL & INSURANCE PRACTICE SECTION (TIPS)

CLASS ACTION LITIGATION IN AMERICA – A NATIONAL SYMPOSIUM

Sheraton New Orleans Hotel – March 10–11, 2016

REGISTRATION DEADLINE: FEBRUARY 19, 2016

1. REGISTRANT: *(Please print or type one form per person; photocopy this form for additional registrants)*

LAST NAME FIRST NAME MI

FIRM/COMPANYWHAT STATE(S) ARE YOU LICENSED IN?

ADDRESS

CITY STATE ZIP

(AREA CODE) BUSINESS TELEPHONE FACSIMILE

E-MAIL ADDRESS

Are you attending your first TIPS National Program? Yes No

I am a member of the ABA and wish to join the Tort Trial & Insurance Practice Section. I have enclosed a separate check for \$50 made payable to the American Bar Association.

2. SOCIAL EVENTS SIGN-UP

(Although the event below is complimentary, we need to know if you will attend.)

_____ Thursday, 3/10/16, cocktail reception QTY _____

3. REGISTRATION FEES:

| | On or Before | After | QTY | Total |
|-------------------------------------|----------------|----------------|-------|-------|
| | <u>2/19/16</u> | <u>2/19/16</u> | | |
| TIPS Member | \$550 | \$575 | _____ | _____ |
| ABA Member | \$600 | \$625 | _____ | _____ |
| General Attendee | \$650 | \$675 | _____ | _____ |
| Insurance Company/Corporate Counsel | | | | |
| TIPS/Ins./Corporate Counsel | \$400 | \$425 | _____ | _____ |
| Non TIPS/Ins./Corporate Counsel | \$450 | \$475 | _____ | _____ |
| Law Student | \$150 | \$175 | _____ | _____ |

Total _____

4. TOTAL PAYMENT

5. PAYMENT INFORMATION

Check (made payable to the ABA) American Express MasterCard VISA CREDIT

CARD NUMBER

EXPIRATION DATE

SIGNATURE

NOTE: We encourage you to register using the online registration link on this form. If you are unable to register online, please use this form to register by mail or fax. In order to protect your credit card information, we do not accept credit card payments via email.

THREE WAYS TO REGISTER

1. ONLINE:

[www.americanbar.org/
groups/tort_trial_
insurance_practice.html](http://www.americanbar.org/groups/tort_trial_insurance_practice.html)

2. MAIL:

CLASS ACTION LITIGATION IN AMERICA –
A NATIONAL SYMPOSIUM
Attn: Service Center - Meeting/Event Registrations
Department
Meeting Code: IL0316CAL
321 North Clark Street, Floor 16
Chicago, IL 60654

3. FAX

(312) 988-5850 On-site registrants must pay the program fee plus an additional \$25 by check or credit card.

GENERAL INFORMATION

Registration Deadline: Friday, February 19, 2016

Hotel Deadline: Wednesday, February 10, 2016

ADVANCE REGISTRATION

Visit the TIPS website to register at www.abanet.org/tips or complete the registration form included in this brochure for "Class Action Litigation in America – A National Symposium" being held at the Sheraton New Orleans Hotel. The registration fee includes admission to the program, course materials, continental breakfast, breaks and welcome reception. If you wish to have your name appear on the pre-registration list distributed at the program, ALL registration forms must be received no later than the registration deadline of February 19, 2016. Registration reservations will be confirmed in writing within 10 business days.

ON-SITE REGISTRATION

On-site registrations will be accepted. Call Donald Quarles at 312.988-5708 or email donald.quarles@americanbar.org, 72 hours prior to the program to confirm that space is available. Onsite registrants must pay the program fee by credit card or check made payable to the American Bar Association. A \$25 fee will be charged to individuals registering on-site.

CANCELLATION POLICY

No registration fee refunds will be granted for cancellations received after February 19, 2016. In order to receive a refund (minus a \$50 administrative fee), the ABA must receive written cancellation by February 19, 2016. Registrants who are unable to attend may send a substitute or will receive course materials in lieu of a refund.

HOTEL INFORMATION

Hotel Reservations - 504-525-2500

A limited number of rooms have been blocked for program registrants at the **Sheraton New Orleans Hotel, 500 Canal Street, New Orleans, LA 70130**. Hotel reservations can be made by calling the hotel directly at 504-525-2500. **The room block will be held until Wednesday, February 10, 2016 at 5:00 p.m. (CST) or until exhausted.** After that date, reservations will be confirmed based on availability. To receive the special ABA negotiated hotel room rate of \$219.00 single/double plus 14.75% tax, identify yourself as attending the ABA Tort Trial & Insurance Practice Section Class Action Litigation in America Program when making reservations.

Hotel check-in is 4:00 p.m. and checkout is 12:00 p.m. (noon). All reservations must be guaranteed by credit card or deposit check. Individuals with guaranteed reservations must cancel their reservations 72 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge.

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CLE INFORMATION

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 10.75 CLE credit hours in 60-minute states, and 12.90 credit hours in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit www.americanbar.org/tips or contact Donald Quarles at donald.quarles@americanbar.org or 312.988.5708.

MEMBERSHIP INFORMATION

For more information about membership in the ABA or the Tort Trial & Insurance Practice Section (TIPS), please visit us online at www.abanet.org/tips/memberapp.html or call 800.285.2221. Membership in TIPS includes three industry-leading periodicals, discounts of up to 20% on many TIPS CLE programs, and other career and practice-enhancing benefits. Join TIPS today!

PERSONS WITH DISABILITIES

Services for persons with disabilities are available. If special arrangements are required for an individual to attend this program, please notify the ABA promptly at 312.988.5708. Reasonable advance notice is requested.

GET CONNECTED WITH TIPS!

Information on this and other TIPS CLE programs is available online at www.abanet.org/tips. Visit us and get connected!

SCHOLARSHIPS AVAILABLE!

ATTENTION TIPS MEMBERS: Scholarships are available for all Section activities, courtesy of the TIPS Scholarship Fund. The Fund, established with the International Risk Management Institute ("IRMI") and supported by subscriptions to the IRMI CGL reporter, is intended to increase membership involvement in TIPS' activities among minorities, solo and small firm practitioners, government attorneys, women, and young lawyers by providing financial support to those who would otherwise be unable to participate. To request an application or receive additional information, visit www.abanet.org/tips/scholarship.html or contact Michael McCarthy at 312.988.5585.



FACULTY

PROGRAM CHAIR

Steven P. Benenson, Esq.

Program Chair

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Morristown, NJ

PLANNING COMMITTEE

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Atlanta, GA

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Director of Litigation

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The Honorable

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United States District Court
for the Eastern District of
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New Orleans, LA

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Tort Trial & Insurance Practice Section
321 North Clark Street
Chicago, Illinois 60654

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