



Class Action Money & Ethics 2018

2ND ANNUAL CONFERENCE

**Aligning Interests & Optimizing Outcomes
in Class Action Litigation**

May 7, 2018
The Harmonie Club
New York City

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CLASS ACTION MONEY & ETHICS 2018

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2nd Annual
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The
Documents Book

The Harmonie Club
4 East 60th Street
New York City
May 7, 2018

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Class Action Money & Ethics 2018

Conference Agenda

7:30 a.m.

Registration and Continental Breakfast

8:00 a.m.

Opening Remarks

Robin Cantor (Berkeley Research Group)

8:10 a.m.

Plaintiffs Placing Themselves in Harm's Way

- Peggy Daley, (*Moderator*), Managing Director, Berkeley Research Group, LLC
- Matthew R. DalSanto, Ph.D., Winston & Strawn LLP
- Michael P. Daly, Partner, Drinker Biddle & Reath LLP

A long held view is that plaintiffs have a duty to mitigate their potential damages. Increasingly, though, that view is being turned upside down by plaintiffs that seemingly place themselves in harm's way despite available options to avoid that harm. Examples span a range of cases from TCPA litigation to securities and employment disputes. This panel will examine both the role of professional plaintiffs in class actions and also whether plaintiffs' intentionally incurring harm can demonstrate the common impact requirement necessary for class certification.

9:10 a.m.

The Right Approach to Effective Claims

- Samuel Issacharoff, (*Moderator*), Professor of Constitutional Law, NYU

- Rosemary M. Rivas, Partner, Levi & Korsinsky LLP
- Eric Schachter, Vice President, A.B. Data, Ltd.
- Mark Sole, CEO, Sipree, Inc.
- William W. Wickersham, Vice President, RG/2 Claims Administration LLC

Class action claims efficacy is difficult to prove. Technology is shifting the game from simply measuring “impressions” to being accountable for actual claims rates using efficient and targeted notice/outreach techniques. As definitions for Rule 23 compliance are expanding to embrace more digital methods, more data than ever is available to the Court and to lawyers to demonstrate class action efficacy and drive higher claims rates. In this panel, we will discuss the expectations and impact of claims efficacy and how this is – and should – be measured for all constituencies involved.

10:10 a.m.

Morning Networking Break

10:30 a.m.

Class Certification

- Tom McParland, (*Moderator*), Delaware Law Weekly
- Eric L. Cramer, Managing Shareholder, Berger & Montague, P.C.
- Jeff Klenk, Associate Director, Berkeley Research Group, LLC
- P. Russell Perdew, Partner, Locke Lord LLP

Hear from plaintiff and defense counsel, and economists/consultants on the latest developments in class certification decisions from the U.S. Supreme Court and courts across the country and in the legislature, as well as practical tips for addressing factual, legal and evidentiary issues at both the trial and appellate levels.

11:30 a.m.

Litigation Finance

- Francesca Castagnola, (*Moderator*), Sr. Vice President, Western Alliance Bank
- Kenneth R. Feinberg, Founder, Managing Partner, Kenneth R. Feinberg, PC
- Michael D. Hausfeld, Chairman, Hausfeld
- Emily Slater, Managing Director, Burford Capital, LLC

A robust market for third-party litigation financing has expanded over the past decade to become a multi-billion dollar industry. Chances are there’s third-party funding the litigation costs in a matter you’re currently working on. This panel of litigation financiers and professionals will discuss the differences they’ve seen in lawsuits and disputes where the presence of outside capital was known, was suspected but not confirmed, and where

the parties funded litigation out of their pockets or on a traditional contingency fee arrangement. The panelists will share their observations about differences in the strength of initial claims and causes of action, how rapidly litigation proceeds, and how negotiation strategies are influenced.

12:30PM-1:30PM

Luncheon

- Elizabeth J. Cabraser, Partner, Lief, Cabraser, Heimann & Bernstein

1:40 p.m.

Diversity in the Class Action Bar

- Shandarese Garr (*Moderator*), Senior Vice President, Garden City Group
- Barbara Hart, President & CEO, Lowey Dannenberg Cohen & Hart, P.C.
- Sharon K. Robertson, Partner, Cohen Milstein Sellers & Toll PLLC
- Corey M. Stern, Partner, Levy Konigsberg LLP

How does an individual's background impact their level of focus and participation in class action matters? In this panel discussion, we will explore the financial and ethical implications of diversity, particularly in the legal field. We will consider how bias affects the pursuit, prosecution and defense of claims and causes of action. We will explore how diversity affects discovery, litigation strategy and settlement negotiations, as well as the selection of the professional team. Our diverse panel of experts will also share their experiences and best practices for addressing these behaviors on a larger scale within your firm.

2:40 p.m.

Labor, Employment and the Gig Economy

- Robin Cantor, Ph.D., (*Moderator*), Managing Director, Berkeley Research Group
- Paul Marron, Founder & Principal, Marron Lawyers, APC
- Royal F. Oakes, Partner, Hinshaw & Culbertson LLP
- Scott J. Wenner, Partner, Schnader Harrison Segal & Lewis LLP
- Robin G. Workman, President, Workman Law Firm, PC

This panel on labor & employment class actions will focus specifically on the issue of independent contractor versus employee status. The importance of this issue cannot be overstated in the modern gig economy because an increasingly large proportion of people who perform "labor services" in (and outside of) the United States do so as independent contractors rather than employees. The extent of control exercised by a company over its independent contractors is at the core of many disputes and it likely to be a continuing

challenge in a world with new and varied work relationships. This panel will discuss the economic, technological, social and legal aspects of this issue and highlight important recent class actions in this area.

3:40 p.m.

Afternoon Networking Break

4:00 p.m.

Alternative Dispute Resolution

- Deborah Greenspan, (*Moderator*), Partner, Blank Rome LLP
- Ethan P. Greene, Partner, Reisman Karron Greene LLP
- Randi Roth, Judicial Adjunct, Complex Settlements, P.C.
- Chris Seeger, Partner, Seeger Weiss LLP

Courts have relied on ADR – using special masters – to address such issues as school desegregation or management of prisons. More recently special masters have been involved in public health matters (involving mold in public housing) and in addressing issues related to the care of children in foster care. In yet another example, the federal government set up an administrative claim resolution fund to address tens of thousands of claims arising out of the 9/11 attacks – avoiding litigation involving multiple governmental entities and companies and access to information about national security. The recent settlement of the VW litigation included an environmental mitigation trust – addressing the issue of excess emissions. The massive settlement among state AGs and the tobacco industry – involving advertising and education programs – is another example. The panel will discuss the potential role and effect of ADR in matters involving public policy objectives or concerns, address some examples, the issues that arise, the multiple constituencies involved, the factors to consider, and the methodologies employed. While the legislative and executive branches of government arguably might be more suited to addressing public policy concerns, courts frequently face such issues.

5:00 p.m.

Conference Adjourns

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Jeffrey Adam Baxt
(240) 629-3300 ext. 150
jeff@beardgroup.com

Bernard Toliver
(240) 629-3300 ext. 149
bernard@beardgroup.com

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