

Class Actions, Mass Torts, and MDLs

The Next 50 Years



Nov. 1-2, 2019 | Lewis & Clark Law School

An Academic Symposium

AGENDA

DAY 1 – FRIDAY

9:00-9:10 **Welcome** from Lewis & Clark and Pound Civil Justice Institute

Dean Jennifer Johnson & Prof. Robert Klonoff, Lewis & Clark Law School
Jennie Anderson, President, Pound Civil Justice Institute

9:15-10:30 **STATE MDLs, STATE CLASS ACTIONS**

Moderator: Lori Andrus of Andrus Anderson, LLP

Paper: **The State of State MDLs: Texas's Story**

By Prof. Theodore Rave, University of Houston Law Center and Prof. Zachary Clopton,
Northwestern Law School

Commentators: Sarah Crooks, Esq.; Hon. Robert B. Freedman (ret.); Danielle Ward Mason, Esq.;
David Sugerman, Esq.

Q&A

10:30-10:45 – break

10:45-11:45 **SOCIAL JUSTICE CLASS ACTIONS**

Moderator: Prof. Judith Resnik, Yale Law School

Paper: **The Tenuous Persistence of the Public Interest Class Action**

By Prof. David Marcus, UCLA School of Law

Commentators: Jocelyn Larkin, Impact Fund; Dean Alan Morrison, George Washington Law;
Prof. Elizabeth Thornburg, SMU School of Law

Q&A

12:00-1:00 **LUNCH**

The Next 50 Years of Aggregate Litigation – A Conversation

Prof. Arthur Miller, NYU School of Law & Prof. Robert Klonoff

1:15-3:00 **FEDERAL MDLs, FEDERAL CLASS ACTIONS**

Moderator: Prof. Samuel Issacharoff, NYU School of Law

Papers/Authors:

What Do MDL Leaders Do?: Evidence From Leadership Appointment Orders

By Prof. David Noll, Rutgers Law School

Layers of Lawyers: Parsing the Complexities of Claimant Representation in Mass Tort MDLs

By Prof. Lynn Baker, University of Texas Law School; and Steve Herman of Herman, Herman
& Katz, New Orleans

Procedural Self-Inflicted Wounds? Appellate Issues in Complex Civil Litigation

Prof. Joshua Davis, Univ. of San Francisco School of Law; and Brian Devine of Seeger Salvas
& Devine LLP, San Francisco

FEDERAL MDLs, FEDERAL CLASS ACTIONS panel (cont.)

Commentators: Sindhu Daniel, Esq.; Judge Robert Dow, Jr.; Steve Herman, Esq.; Judge David Herndon (ret.); Anne Talcott, Esq.; Prof. Elizabeth Thornburg
Q&A

3:15-4:45 **CLASS ACTION SETTLEMENT**

Moderators: Judge Robert Dow, Jr. and Jennie Lee Anderson, Esq.

Papers/Authors:

Class Action Objectors/2018 Rule 23 Amendments

By Prof. Adam Steinman, University of Alabama Law School; and Elizabeth Cabraser, Lieff Cabraser Heimann & Bernstein, LLP, San Francisco

The *Cy Pres*-Only Class Action and Adjudicative Legitimacy

By Prof. Robert Bone, University of Texas Law School

The Importance of *Cy Pres* in Modern Class Action Jurisprudence and the Myths Regarding its Use

By Gerson Smoger of Smoger & Associates, Dallas, TX

Commentators: Jennifer Bennett, Esq.; Prof. Briana Rosenbaum, University of Tennessee College of Law; David Sugerman, Esq.

Q&A

4:45-5:30 **Reception**

DAY 2 – SATURDAY

9:00-9:10 am **Discussion of Aggregate Litigation in Oregon**

Justice Thomas A. Balmer, Oregon Supreme Court

9:15-12:15 pm **PROGNOSIS**

Moderator: Prof. Robert Klonoff, Lewis & Clark Law School

Collective Preclusion and Inaccessible Arbitration: Data, Non-Disclosure and Public Knowledge

By Prof. Judith Resnik, Yale Law School; Stephanie Garlock, Yale Law School (2020); Annie Wang, Yale Law School (2020)

Deregulation and Private Enforcement

By Prof. Brian Fitzpatrick, Vanderbilt Law School

Commentators: Jennifer Bennett, Public Justice; Elizabeth Cabraser, Esq.; Prof. Briana Rosenbaum; Anne Talcott, Esq.

10-minute break

Moderator: Prof. Arthur Miller, NYU School of Law

Paper: **Mass Tort: Endgame**

By Prof. Alexandra Lahav, University of Connecticut School of Law

Commentators: Lori Andrus, Esq.; Prof. Lynn Baker; Judge David Herndon (ret.); Prof. Samuel Issacharoff

PROGRAM END