

# The 13th Annual National Institute on Class Actions

**Friday,  
October 30, 2009**

InterContinental  
San Francisco Hotel  
San Francisco, CA

**Friday,  
November 20, 2009**

Willard InterContinental  
Washington  
Washington, DC



Presented by  
**The American Bar Association  
Section of Litigation and the  
Center for Continuing  
Legal Education**

Register Online at  
[www.abanet.org/cle/programs/n09cac1.html](http://www.abanet.org/cle/programs/n09cac1.html)



6.33 hours, including 1.25 hours of ethics credit, have been requested from states that recognize a 60-minute credit hour and 7.60 hours, including 1.50 hours of ethics credit, from those states granting credit hours on a 50-minute basis.

# Program Highlights

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## COME TO THIS PROGRAM IF YOU WANT TO...

- Hear the latest trends in litigating class actions.
- Stay up-to-date on the hot class action issues and the newest developments in class action case law.
- Learn how counsel and the courts are addressing class certification motions.
- Keep up with state of the art tactics on how to settle class actions.
- Get the perspective of federal district judges on key class action issues.
- Observe how attorneys address class action waivers and arbitration clauses.

## Who should attend?

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- **All attorneys** who negotiate and settle class actions.
- Sophisticated **in-house counsel** and **litigators** who are interested in learning about class action waivers and arbitration clauses.
- **Seasoned practitioners** who litigate consumer class certification motions.
- **Attorneys** interested in learning how judges view class actions.

## Sponsors

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

The Planning Committee invites all attendees and their colleagues to join one or more of our sponsoring committees. Membership in up to three committees is free to all members of the ABA Section of Litigation. Go to [www.abanet.org/litigation/committees](http://www.abanet.org/litigation/committees) and enroll online today. Membership in committees allows you to keep an eye on emerging issues in your areas of practice. No time commitment is necessary.

The Section of Litigation and the ABA Center for CLE join in thanking Rust Consulting, Inc. and its partner Kinsella Media, LLC for their generous support of this National Institute. Rust Consulting and Kinsella Media offer a full complement of class action services including class member location, data management, notification, claims processing, call center services, distribution, and tax reporting.



# National Institute Faculty

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**Thomas L. Allen**

*Reed Smith, LLP*  
Pittsburgh, PA

**Fred W. Alvarez**

*Wilson Sonsini Goodrich & Rosati*  
Palo Alto, CA

**John H. Beisner**

*Skadden, Arps, Slate, Meagher & Flom, LLP*  
Washington, DC

**Honorable Catherine C. Blake**

*United States District Court for the District of Maryland*  
Baltimore, MD

**Honorable Steven Brick**

*Alameda County Superior Court*  
Oakland, CA

**Elizabeth J. Cabraser**

*Lieff Cabraser Heimann & Bernstein, LLP*  
San Francisco, CA

**Mark Chavez**

*Chavez & Gertler, LLP*  
Mill Valley, CA

**Michael V. Ciresi**

*Robins, Kaplan, Miller & Ciresi, LLP*  
Minneapolis, MN

**Professor John C. Coffee**

*Columbia Law School*  
New York, NY

**Honorable Stanwood R. Duval Jr.**

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

**Vincent J. Esades**

*Heins Mills & Olson, PLC*  
Minneapolis, MN

**Steven E. Fineman**

*Lieff Cabraser Heimann & Bernstein, LLP*  
New York, NY

**Honorable Paul L. Friedman**

*United States District Court for the District of Columbia*  
Washington, DC

**Todd L. Fulks**

*Clayton Homes*  
Maryville, TN

**Hilary Hehman**

*Judicial Council of California*  
San Francisco, CA

**John P. Hooper**

*Reed Smith, LLP*  
New York, NY

**S. Ault Hootsell III**

*Phelps Dunbar, LLP*  
New Orleans, LA

**John B. Isbister**

*Tydings & Rosenberg LLP*  
Baltimore, MD

**Daniel R. Karon**

*Goldman, Scarlato & Karon, PC*  
Cleveland, OH

**Katherine Kinsella**

*Kinsella Media, LLC*  
Washington, DC

**Jocelyn Larkin**

*The Impact Fund*  
Berkeley, CA

**Lisa M. Mezzetti**

*Sellers & Toll, PLLC*  
Washington, DC

**Professor Arthur R. Miller**

*New York University School of Law*  
New York, NY

**Jessica D. Miller**

*Skadden, Arps, Slate, Meagher & Flom, LLP*  
Washington, DC

**Honorable Kathleen McDonald O'Malley**

*United States District Court for the Northern District of Ohio*  
Cleveland, OH

**Scott L. Nelson**

*Public Citizen Litigation Group*  
Washington, DC

**Honorable Shira A. Scheindlin**

*United States District Court for the Southern District of New York*  
New York, NY

**Laurie B. Smilan**

*Latham & Watkins, LLP*  
Washington, DC

**Bonny E. Sweeney**

*Coughlin, Stoa, Geller, Rudman & Robbins, LLP*  
San Diego, CA

**Shirli Fabbri Weiss**

*DLA Piper*  
San Diego, CA

**Stuart M. Widman**

*Miller Shackman & Beem*  
Chicago, IL

# Program Agenda

## Morning Sessions

8:00 a.m. **Registration and Continental Breakfast**

9:00 a.m. **Welcoming Remarks, John B. Isbister**

9:10 a.m. **New Developments in Class Actions with Professor John C. Coffee**

10:15 a.m. **Morning Break**

10:30 a.m. **A Funny Thing Happened on the Way to the Courthouse . . . I Had to Litigate an Arbitration Clause! Crafting, Opposing, and Arguing Arbitration Clauses and Class Action Waivers in Three Scenes**

Arbitration clauses containing class action waivers are prevalent in consumer class actions, but courts have begun questioning their validity. Our entertaining format brings the audience into all phases of this issue, from witnessing a company creating an arbitration clause containing a class action waiver; to observing plaintiffs' counsel dissecting the clause as they craft a class action claim; to watching both sides argue their positions on a motion to compel arbitration.

**Moderator:** Daniel R. Karon

**Speakers:** Vincent J. Esades  
Todd L. Fulks  
Stuart M. Widman

11:30 a.m. **Living on the Fault Line: Class Action Issues in California  
San Francisco, CA Location Only**

Driven by California's policy favoring class actions and progressive statutory protections for consumers and workers, California courts have seen a class action boom. The California Supreme Court continually grapples with important class action issues—including certification, class member privacy, and standing—with significant impact in the state and beyond. This program surveys the seismic shifts in the Golden State's class action landscape and reviews the ongoing California Judicial Council study of California class actions.

**Moderator:** Jocelyn Larkin

**Speakers:** Fred W. Alvarez  
Honorable Steven Brick  
Mark Chavez  
Hilary Hehman

**Current Issues in Class Actions: A Judicial Roundtable  
Washington, DC Location Only**

As much as lawyers attempt to shape cases they litigate, judges ultimately determine whether a case will proceed as a class action, how it will be managed, and how it will be resolved. Understanding judicial perspectives is therefore essential to class action practitioners. A group of federal judges with diverse perspectives on class litigation will participate in a wide-ranging and thought-provoking conversation on current issues in class actions.

**Moderator:** Professor Arthur R. Miller

**Speakers:** Honorable Catherine C. Blake  
Honorable Kathleen McDonald O'Malley  
Honorable Shira A. Scheindlin

## Afternoon Sessions

12:45 p.m. **Lunch and Breakout Sessions**

Attendees will break out into individual discussion groups during lunch where they will have the opportunity to meet fellow practitioners and exchange ideas and information regarding various class action issues. Each discussion group will be led by an experienced moderator and will focus on one of the following topics: (1) consumer class actions; (2) securities litigation; (3) mass tort actions; (4) wage and hour collective actions; (5) employment and civil rights class actions; (6) antitrust and RICO; (7) CAFA; and (8) open table. Attendees should indicate on the registration form their preferred discussion group.

1:45 p.m.

## Hydrogen Peroxide Will Clear It up Right Away: Developments in the Law of Class Certification

Leading plaintiff and defense practitioners in product liability, securities, antitrust and consumer class actions will discuss recent blockbuster appellate cases on class certification standards. Our faculty will address questions including:

- Are circuit splits developing?
- What will be the easiest/hardest cases to certify in 2010?
- Are issue classes the answer?
- How will pre-certification discovery be affected?
- Are the state courts tagging along?

### San Francisco, CA Location

**Moderator** Jessica D. Miller  
**Panelists** John H. Beisner  
Elizabeth J. Cabraser  
Bonny E. Sweeney  
Shirli Fabbri Weiss

### Washington, DC Location

**Moderator** Jessica D. Miller  
**Panelists** John H. Beisner  
Steven E. Fineman  
Laurie B. Smilan  
Bonny E. Sweeney

3:15 p.m.

## Afternoon break

3:30 p.m.

## A Survival Guide for Today's Class Action Settlements

This panel examines substantive, procedural, and ethical issues that arise in the class settlement process, including:

- the ethics of negotiating class counsel's fees
- staying related litigation
- coupon settlements after CAFA
- *cy pres* recoveries
- drafting class member releases
- how new media and communication technologies affect notice and claims administration

### San Francisco, CA Location

**Moderator** John P. Hooper  
**Panelists** Michael V. Ciresi  
Hon. Stanwood R. Duval Jr.  
Katherine Kinsella

### Washington, DC Location

**Moderator** S. Ault Hootsell III  
**Panelists** Thomas L. Allen  
Lisa M. Mezzetti  
Hon. Paul L. Friedman  
Katherine Kinsella

5:00 p.m.

## Adjourn

# Check out these ABA Web Store Products

## It Ain't Over Till It's Over: Litigating Class Actions After Class Certification and Before Trial

There are an abundant amount of materials addressing class certification motion practice, and similar materials addressing how to best try class actions, but almost nothing on what happens (in the absence of settlement) between certification and trial. Too often counsel puts all their eggs in the certification basket, with little thought as to strategy once certified. There are many options on gaining field advantage during the intervening period to either better prepare for trial or to better posture the case for favorable settlement. These options include:

- motion for reconsideration
- rule 23(f) motions
- merit discovery
- partial (or total) summary judgment motions
- decertification motions
- motions for a trial plan
- motions in limine and much more

**CET09LCAC Audio Package (includes 2 audio CDs and printed course materials)**  
**\$125 Section of Litigation Members, \$135 ABA Members, \$150 General Public**

## E-Discovery 2009: Practical Solutions for Dealing with Electronically Stored Information

After a year-and-a-half of history under the amended Federal Rules of Civil Procedure, important trends have emerged in the discovery of ESI. With an all-star lineup of inside counsel, judges, e-discovery experts, and private practitioners this program includes topics such as how courts allocate the blame for mistakes based on who does the work of e-discovery; the risks and benefits of downgrading data to backup tapes; cost-effective methods for handling the massive tasks of reviewing ESI; the benefits and implications of conducting discovery on e-discovery compliance; and the overarching ethical issues that frequently arise.

**CEN09EDVC Audio CD Package (includes a softbound coursebook plus a fully searchable CD-ROM of its contents)** \$500 Section of Litigation Members, \$550 ABA Members, \$600 General Public

**CEN09EDVB Softbound Course book and Searchable CD-ROM**

**\$175 Section of Litigation Members, \$185 ABA Members, \$200 General Public**

To order or for more information on these and other products, visit and shop the ABA web store at [www.abacatalog.org](http://www.abacatalog.org) or call 800.285.2221.

# National Institute Information

## PROGRAM TUITION

Attend the entire program, including breakfast, lunch, networking with other registrants and faculty, and receive the written course materials, as well as a download of the 2009 Survey of State Class Action Law (a \$52 value) and pay only...

- **\$625** for the General Public
- **\$500** for ABA Members (*Save \$125*)
- **\$375** for Section of Litigation Members (*Save \$250*)

## ABA SECTION OF LITIGATION

Become an ABA Member, and join this dynamic section when registering for this program at the cost of only \$55. Save up to **\$250** on this program tuition!

## GROUP AND OTHER DISCOUNTS

Register 5 or more attendees at the same time and receive a 25% reduction on each program tuition! **For more information, contact Nolan Bailey at 312.988.6209.**

## MCLE

Mandatory continuing legal education (MCLE) accreditation has been requested from all states that require continuing legal education. Each registrant will also be eligible for MCLE accreditation in those states that require continuing legal education. **6.33** hours, including **1.25** hours of ethics credit, have been requested from states that recognize a 60-minute credit hour and **7.60** hours, including **1.50** 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 (**7.50** total NY transitional MCLE credits including **1.50** of ethics credit).

## 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 on scholarships, visit [www.abacle.org/scholarship](http://www.abacle.org/scholarship).**

## SERVICES FOR PERSONS WITH DISABILITIES

If special arrangements are required, please contact Darren Baylor at 312.988.6198. 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

Cancellations received 5 business days or more before the program will receive a 100% refund, less a \$50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA Service Center at 800.285.2221 or fax your request to 312.988.5850. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the program course materials after the program.

## PROGRAM CONFIRMATION

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 800.285.2221 at least 24 hours in advance to confirm that your registration was received and that the program is being held as scheduled.

## HOTEL INFORMATION

InterContinental  
San Francisco Hotel  
888 Howard Street  
San Francisco, CA 94103  
P: 415.616.6500  
888.811.4273

Rate: Single/Double \$164  
Hotel Deadline:  
**October 8, 2009**

Willard InterContinental  
Washington  
1401 Pennsylvania Ave NW  
Washington, DC 20004  
P: 202.628.9100  
888.259.8697

Rate: Single/Double \$249  
Hotel Deadline:  
**October 29, 2009**

All room rates are subject to city occupancy and sales tax. One night's deposit is required for reservation. Unclaimed rooms will be released 21 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

Discounted fares are available from ABA Orbitz for Business including ABA negotiated discounts on American, United and Continental Airlines. To book online go to [www.abanet.org/travel](http://www.abanet.org/travel). Click under the Orbitz for Business logo at the top of the page; and click on the appropriate link in the Self Paid Travel box. For assistance with online or offline reservations, please call toll free 1-877-222-4185.

Discounts can also be obtained directly from the carrier. American: Call 800-433-1790 code **20348**; United: Call 800-521-4041 code **578IG**; Continental: Call 800-468-7022 Z code **ZFD2** - Agreement code **BWRKNY**. Continental discounts are also available at [www.continental.com](http://www.continental.com). Enter **ZEPBBQH95** in the offer code box.

## 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, teleconferences, other technology-based products, and written course materials to assist lawyers with their continuing legal education efforts.

**David W. Hilgers, Chair**  
**Brown McCarroll, LLP**  
**Austin, TX**

## ABA CENTER FOR CONTINUING LEGAL EDUCATION

**Rick Vittenson, Director**  
**Darren Baylor, Associate Director, CLE Courses**  
**Sheena Wade, Marketing Manager**  
**Nolan Bailey, Production Assistant**

# Registration and Order Form

## To Register and Order:

 **Online:** Visit our secured Web site at [www.abanet.org/cle/programs/n09cac1.html](http://www.abanet.org/cle/programs/n09cac1.html) (credit card only)

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

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### TUITION

\$625 General Public  
 \$500 ABA Members

ABA # \_\_\_\_\_

\$375 Section of Litigation Members  
ABA # \_\_\_\_\_

**Please check the session for which you wish to register for:**

October 30, 2009 | San Francisco, CA | CEN9CA1  
 November 20, 2009 | Washington, DC | CEN9CA2

### BREAKOUT SESSIONS

**Please select one preferred discussion for the lunch session:**

- Consumer class actions
- Securities litigation
- Mass tort actions
- Wage and hour collective actions
- Employment and civil rights class actions
- Antitrust and RICO
- Open table

### 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 \$55.

### PRODUCT ORDER FORM

**Order below or online at [www.abacatalog.org](http://www.abacatalog.org)**

- Send me the **Class Actions Audio CD Package, CEN09CA2C** (CDs and course materials), available approximately three weeks following the program (\$360 Section of Litigation Members, \$385 ABA Members, \$425 General Public). Domestic shipping and handling cost is \$12.95.
- Send me the **Class Actions Course Materials, CEN09CA2B** (\$125 Section of Litigation Members, \$135 ABA Members, \$150 General Public). Illinois residents add 10.25% sales tax. District of Columbia residents add 5.75% use tax before including domestic shipping and handling charges. Price is subject to change after 11/7/2009.



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