## 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: One State's Story

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

<u>Commentators:</u> Sarah Crooks, Esq.; 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

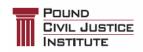
By Prof. David Noll, Rutgers Law School

#### 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.)

<u>Commentators:</u> 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 of its Use

By Gerson Smoger of Smoger Law Firm, Dallas, TX

<u>Commentators:</u> 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

<u>Commentators:</u> 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

<u>Commentators:</u> Lori Andrus, Esq.; Prof. Lynn Baker; Sarah Crooks, Esq.; Judge David Herndon

(ret.); Prof. Samuel Issacharoff