

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

Commentators: 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.)

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 of its Use

By Gerson Smoger of Smoger Law Firm, 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; Sarah Crooks, Esq.; Judge David Herndon (ret.); Prof. Samuel Issacharoff