



# Class Actions

Latest Developments  
in Law and Practice



SCOTUS advocates discuss their cases

Cutting-edge developments  
presented by experienced counsel

Panel sessions by prominent  
in-house counsel

Networking with the leading  
class action defense counsel  
from around the world



July 23-24, 2015

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**C**lass action litigation looms large as a potential threat to corporate defendants around the world and has captured the attention of the public, the court system, and litigants alike. In this cutting-edge seminar, learn from experts about recent developments in the law, strategy, and the best practices for successfully defending class cases. Esteemed Supreme Court advocates, experienced in-house counsel, members of the judiciary, and master practitioners from around the globe will share their insights into every aspect of class action litigation—from removal to appeal and everything in between. Management of the class case outside of the courtroom will also be explored in sessions on financial incentives driving these cases, bellwether mediation, and optimizing media relations.

This high level seminar experience is hosted by an interdisciplinary collection of DRI committees and offers a stellar opportunity to sharpen your class action defense skills in the presence of the best in the business. Attendees will have the opportunity to build their books of contacts at a variety of networking events, where the finest class action practitioners gather each summer in Washington, D.C. If your practice includes the defense of class actions, this event is not to be missed.



**Michelle Thurber  
Czapski**  
Program Chair



**W. Jason Rankin**  
Program Vice Chair



**Jeffrey A. Holmstrand**  
Law Institute



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have to say about  
DRI seminars

<http://www.youtube.com/user/DefenseBar>

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**Toxic Torts and Environmental Law**








## What You Will Learn

- How the U.S. Supreme Court has made it easier for class action defendants to remove cases to federal court, as explained by defense counsel who argued *Dart Cherokee Basin Operating Co., LLC v. Owens*
- A panel of international in-house and outside counsel will discuss how class action litigation has proliferated around the world
- A nationally experienced class action appellate lawyer will present on hot topics percolating in appellate courts across the country
- Real-world, practical approaches to handling the day-to-day aspects of the class case and proven strategies for success




## Get Started

- 1 Review the brochure and identify sessions of interest to you
- 2 Share this brochure with colleagues
- 3 Register online at <http://dri.org/Event/20150016> or complete the form in the back
- 4 Add the program to your calendar
- 5 Download the DRI App   and make use of its features to get the most out of this program
- 6 Share on social media   

## Maximize Your DRI Seminar Experience

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- Use the DRI App to customize your schedule, view course materials, and communicate with fellow attendees and speakers.
- Access the **DRI Committee Communities** for **Appellate Advocacy, Commercial Litigation, DRI International, Drug and Medical Device, Employment and Labor Law, Insurance Law, Life, Health and Disability, Product Liability, and Toxic Torts and Environmental Law** at <http://community.dri.org/home> to network with individual members. Share articles, post blogs, and connect with others on the latest trends in your area of practice.
- Discover the  **DRI Client Connection**—meet in-house registrants and speakers.

## PROGRAM SCHEDULE

### WEDNESDAY, JULY 22, 2015

6:00 p.m. **Registration**

6:00 p.m. **Networking Reception**

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### THURSDAY, JULY 23, 2015

7:00 a.m. **Registration**

7:00 a.m. **Continental Breakfast**

SPONSORED BY **Lowenstein Sandler LLP**

8:00 a.m. **Welcome and Introduction**

**Jeffrey A. Holmstrand**, *Flaherty Sensabaugh Bonasso PLLC*, Wheeling, West Virginia

**Michelle Thurber Czapski**, *Bodman PLC*, Detroit, Michigan

8:10 a.m. ***Dart Cherokee Basin Operating Co., LLC v. Owens***

Nowell Berreth will discuss *Dart Cherokee Basin Operating Co., LLC v. Owens*, which makes it easier for corporate defendants to remove cases from state court to federal court. In *Dart*, the Supreme Court clarified that a defendant seeking removal to federal court need not include evidence of federal jurisdiction in its notice of removal; allegations of federal jurisdiction suffice. The Court also rejected the so-called “pre-sumption” against removing cases to federal court under the Class Action Fairness Act.


**Nowell D. Berreth**, *Alston & Bird LLP*, Atlanta, Georgia

9:00 a.m. **It’s All About the Money: Limits on Class Counsel Fees**

Judge Posner will address the “intense judicial scrutiny” required of proposed class action settlements, including the appropriateness of *cy pres* awards and class counsel fees, as addressed in his opinions in *Redman v. RadioShack Corp.*, *Eubank v. Pella*, and *Pearson v. NBTY, Inc.* Given this legal landscape,

Ms. Proctor and Mr. Bollin will explore the steps that defense counsel can take to limit fee recovery and thereby make class actions themselves less appealing to the plaintiffs’ bar.

**Judge Richard A. Posner**, *United States Court of Appeals for the Seventh Circuit*, Chicago, Illinois

 **Laura E. Proctor**, *LP Building Products*, Nashville, Tennessee

**Kip T. Bollin**, *Thompson Hine LLP*, Cleveland, Ohio

10:00 a.m. **Refreshment Break**

SPONSORED BY **Thompson Hine LLP**

10:15 a.m. **Cutting-Edge Developments in Class Action Law**

Though there are fewer blockbusters on this term’s Supreme Court docket than in recent years, class action law has seen important developments across the country. Issues such as CAFA removal, standing, ascertainability, class-wide arbitration, *cy pres* settlements, 23(b)(3) damages experts, and 23(c)(4) issue classes continue to divide advocates and judges alike. Mr. Smith, an experienced class action appellate lawyer and former chair of DRI’s Appellate Advocacy and Amicus Committees, will discuss these and other hot topics in the field.

**Scott Burnett Smith**, *Bradley Arant Boult Cummings LLP*, Huntsville, Alabama

11:10 a.m. **Mediation of Class Cases**

One of the most challenging aspects of MDL or class litigation is devising a suitable means for valuing cases to help drive a resolution strategy. Bellwether trials are frequently used, but recently, Stryker Corporation and plaintiffs’ lawyers utilized an historic “bellwether mediation” approach. The bellwether mediations allowed the parties to arrive at a global settlement for thousands of hip replacement cases. Judge Diane Welsh of JAMS, who presided over

*“I was pleased with the networking opportunities. The size of this seminar is ideal for networking, including with in-house counsel.”*

the mediations and settlement, will describe the stakeholders, process, and results achieved in response to questions from class action expert Jim Martin of Reed Smith.

**James C. Martin**, *Reed Smith LLP*, New York, New York

**Hon. Diane M. Welsh (Ret.)**, *JAMS*, Philadelphia, Pennsylvania

12:00 p.m. **Lunch (on your own)**

12:00 p.m. **Women's Lunch-Around** | Join friends and colleagues for lunch at a selected restaurant (*on your own*). More details on-site.

1:30 p.m. **Advisory Committee on Changes to Rule 23**  
In 2011, the Advisory Committee on Civil Rules appointed a Rule 23 Subcommittee, composed of an elite group of judges, law professors, and practitioners. The Subcommittee is currently examining whether constructive changes can be made to Rule 23. Its current "front-burner" study agenda includes the following topics: (1) refining settlement review criteria, (2) settlement class certification, (3) *cy pres* provisions, (4) the role of objectors, (5) mootness and Rule 68 offers of judgment, (6) issue classes, and (7) notice to class members.

**Hon. Robert M. Dow, Jr.**, *United States District Judge*, Chicago, Illinois  
Rule 23 Subcommittee to Advisory Committee on Civil Rules

2:20 p.m. **Practical Approaches to Defending Class Actions**  
This session will address proven strategies and tactics for both contesting the individual cases of the proposed class representatives and challenging the plaintiffs' critical expert testimony to destroy the class action before it is ever certified.

**Jennifer Quinn-Barabanov**, *Steptoe & Johnson LLP*, Washington, D.C.

**John Parker Sweeney**, *Bradley Arant Boult Cummings LLP*, Washington, D.C.

3:15 p.m. **Refreshment Break**  
SPONSORED BY **Quattlebaum Grooms & Tull PLLC**

3:30 p.m. **The Food Court and Beyond: Consumer Class Actions in Food and Supplements**  
This program will cover the latest developments in food and supplement class actions: new cases beyond "all natural," motions to dismiss and standing issues, recent class certification decisions, the developing ascertainability defense, use of class certification experts, defense strategies, and new claims of plaintiffs' counsel.

**David T. Biderman**, *Perkins Coie LLP*, Los Angeles, California

4:20 p.m. **Adjourn**

6:00 p.m. **Networking Reception**  
SPONSORED BY **Shook Hardy & Bacon LLP**

7:30 p.m. **Dine-Arounds** | Join colleagues and friends at selected restaurants for dinner (*on your own*). More details on-site.

## FRIDAY, JULY 25, 2015

7:00 a.m. **Registration**

7:00 a.m. **Continental Breakfast**

8:00 a.m. **Announcements**  
**W. Jason Rankin**, *HeplerBroom LLC*, Edwardsville, Illinois

8:15 a.m. **Data Breach Class Cases**  
Many companies manage the consequences of cyber attackers stealing private customer information. This program will discuss class action litigation resulting from data breaches, along with the ways in which organizations are both responding to this litigation and enhancing ways to protect against this ever-expanding threat.

**Edward R. McNicholas**, *Sidley Austin LLP*, Washington, D.C.

**W. Jason Rankin**, *HeplerBroom LLC*, Edwardsville, Illinois

 **Andrea T. Shandell**, *Gannett Co. Inc.*, McLean, Virginia

9:15 a.m. **No Injury Classes and Article III Standing**  
Mr. Pincus, an esteemed Supreme Court advocate, will discuss whether, under Article III of the Constitution, plaintiffs lack standing to sue in federal court when they do not claim any tangible injury

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apart from a bare statutory violation. This issue may affect a wide variety of class actions, including privacy, FCRA, and data breach cases.

**Andrew J. Pincus**, *Mayer Brown LLP*, Washington, D.C.

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

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10:30 a.m. **In-House Panel: Defending Class Cases Against Financial Institutions**

Hear experienced in-house counsel from three diverse financial institutions talk about what they need from outside counsel. Topics will include settlement—when to pursue and how to get the authority you need; defending the merits; fighting certification; investigating the claim; and preparing executives to testify.

MODERATOR | **John J. Aromando**, *Pierce Atwood LLP*, Portland, Maine

PANEL

 **Mark T. Freeman**, *KeyCorp*, Cleveland, Ohio

 **Mark S. Lagomarcino**, *Principal Financial Group Inc.*, Des Moines, Iowa

 **Matthew L. Meyer**, *Springleaf Finance Inc.*, Evansville, Indiana

11:45 a.m. **Lunch (on your own)**

1:15 p.m. **Class Action Litigation Around the World**

Class action rules and proposals continue to multiply outside the United States. This presentation, which includes an in-house lawyer who oversees international class actions, will focus on developments in class action rules and jurisprudence in Asia, Latin America, Canada, and Europe.

MODERATOR | **Timothy E. Congrove**, *Shook Hardy & Bacon LLP*, Kansas City, Missouri

PANEL

**Christelle Coslin**, *Hogan Lovells LLP*, Paris, France

 **Silvia Kim**, *Philip Morris International*, New York, New York

**S. Gordon McKee**, *Blake Cassels & Graydon LLP*, Toronto, Ontario

2:15 p.m. **Managing Media Relations in Class Cases**

Companies defending nationwide class actions must often respond in the courtroom, on the Internet, and in the media. Richard Levick, one of the communications industry's most important spokespersons, has set new standards in global communications and brand protection for corporations, countries, and major institutions. Mr. Levick will discuss the benefits, challenges, and risks of engaging the media when defending class actions.

**Richard S. Levick**, *LEVICK*, Washington, D.C.

3:15 p.m. **Refreshment Break**

3:30 p.m. **The Psychology of Legal Ethics, or Why Smart Lawyers Do Dumb Things**

Scholars have devoted increasing attention to the field of “behavioral legal ethics,” seeking to apply general psychological principles to help explain why lawyers sometimes violate the rules even though they should (or do) know better. In many cases, they suggest, lawyers may head down the wrong path without even realizing they are at risk of an ethics violation. By focusing on behavioral legal ethics, we hope this program will make lawyers better equipped to analyze their own motives and conduct in difficult situations.

**Kevin Underhill**, *Shook Hardy & Bacon LLP*, San Francisco, California

4:30 p.m. **Adjourn**

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“*This seminar was very well planned and run. It was professional and thoughtful. The venue was excellent. The important topic of class actions should be covered every year.*”

## GENERAL INFORMATION

### In-House Counsel

In-house counsel are eligible for free registration to DRI seminars. In-house counsel are defined as licensed attorneys, who are employed exclusively by a corporation or other private sector organization for the purpose of providing legal representation and counsel only to that corporation, its affiliates and subsidiaries. In order to qualify for free registration, the individual must also be a DRI member and a member of DRI's Corporate Counsel Committee. Offer excludes the DRI Annual Meeting.

### Claims Executives

Any member of DRI employed as a claims professional by a corporation or insurance company, who spends a substantial portion of his or her professional time hiring or supervising outside counsel in the representation of business, insurance companies or their insureds, associations or governmental entities in civil litigation, will be entitled to free attendance at any DRI program. **Limited to one seminar per calendar year.** Offer excludes DRI Annual Meeting.

### CLE/Claims Adjusters Accreditation

This seminar has been approved for MCLE credit by the State Bar of California for up to **12.25** hours, including **1** hour of ethics credit. Accreditation has been requested from every state with mandatory continuing legal education (CLE) requirements. Certificates of attendance will be provided to each attendee. Attendees are responsible for obtaining CLE credits from their respective states. **Application has been made for continuing education for claims adjusters.** Credit availability and requirements vary from state to state; please check the DRI website at [dri.org](http://dri.org) for the latest information for your state.

### Registration Policy

**Save \$100 when you register by June 25, 2015.** (See the registration form for pricing.) The registration fee includes course materials, continental breakfasts, refreshment breaks, networking receptions, and access to the DRI app. If you wish to have your name appear on the registration list distributed at the conference and receive the course materials in advance, DRI must receive your registration by **July 2, 2015** (please allow 10 days for processing). Registrations received after **July 2, 2015**, will be processed on-site.

### Refund Policy

The registration fee is fully refundable for cancellations received on or before **July 2, 2015**. Cancellations received after **July 2** and on or before **July 9, 2015**, will receive a refund, less a \$100 processing fee. Cancellations made after **July 9** will not receive a refund, but the course materials on CD-ROM and a \$100 certificate good for any DRI seminar within the next 12 months will be issued. All cancellations and requests for refunds must be made in writing. Fax (312.795.0747) or email ([seminars@dri.org](mailto:seminars@dri.org)) to DRI's Accounting Department. Processing of refunds will occur within four weeks after the date of the seminar. All refunds will be processed in the same method that the payment was received. Substitutions may be made at any time without charge and must be submitted in writing.

### Discounts

**Group Discount** The first and second registrations from the same firm or company are subject to the fees outlined previously. The registration fee for additional registrants from the same firm or company is **\$695**, regardless of membership status. All registrations must be received at the same time to receive the discount.

**Travel Discounts** DRI offers discounted meeting fares on various major air carriers for **DRI Class Actions Seminar** attendees. To receive these discounts, please contact Hobson Travel Ltd., DRI's official travel provider, at 800.538.7464. As always, to obtain the lowest available fares, early booking is recommended.

- The taping or recording of DRI seminars is prohibited without the written permission of DRI.
- Speakers and times may be subject to last-minute changes.
- A small portion of your room rate offsets the costs of the seminar.
- DRI policy provides there will be no group functions sponsored by others in connection with its seminars.



## Hotel Accommodations

A limited number of discounted hotel rooms have been made available at the **JW Marriott Washington DC, 1331 Pennsylvania Ave NW, Washington, D.C. 20004**.

Take advantage of the group rate of **\$249 Single/\$269 Double** in one of two ways:

- 1) Reserve online: Visit [dri.org](http://dri.org) and go to the **DRI Class Actions Seminar** page and click on the "Book Hotel" tab.
- 2) Or **contact the hotel directly at 202.393.2000** and mention the **DRI Class Actions Seminar**.

The hotel block is limited and rooms and rates are available on a first-come, first-served basis. You must make reservations by **June 23, 2015**, to be eligible for the group rate. Requests for reservations made after **June 23, 2015** are subject to room and rate availability.

## FACULTY

**John J. Aromando**, Pierce Atwood LLP, Portland, Maine

**Nowell D. Berreth**, Alston & Bird LLP, Atlanta, Georgia

**David T. Biderman**, Perkins Coie LLP, Los Angeles, California

**Kip T. Bollin**, Thompson Hine LLP, Cleveland, Ohio

**Timothy E. Congrove**, Shook Hardy & Bacon LLP,  
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**Christelle Coslin**, Hogan Lovells LLP, Paris, France

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 **Silvia Kim**, Philip Morris International,  
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 **Mark S. Lagomarcino**, Principal Financial Group Inc.,  
Des Moines, Iowa

**Richard S. Levick**, LEVICK, Washington, D.C.

**James C. Martin**, Reed Smith LLP, New York, New York

**S. Gordon McKee**, Blake Cassels & Graydon LLP, Toronto, Ontario

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 **Matthew L. Meyer**, Springleaf Finance Inc.,  
Evansville, Indiana

**Edward R. McNicholas**, Sidley Austin LLP, Washington, D.C.

**Andrew J. Pincus**, Mayer Brown LLP, Washington, D.C.

**Judge Richard A. Posner**, United States Court of Appeals for  
the 7th Circuit, Chicago, Illinois

 **Laura E. Proctor**, LP Building Products,  
Nashville, Tennessee

**Jennifer Quinn-Barabanov**, Steptoe & Johnson LLP,  
Washington, D.C.

**W. Jason Rankin**, HeplerBroom LLC, Edwardsville, Illinois

 **Andrea T. Shandell**, Gannett Co. Inc., McLean, Virginia

**Scott Burnett Smith**, Bradley Arant Boulton Cummings LLP,  
Huntsville, Alabama

**John Parker Sweeney**, Bradley Arant Boulton Cummings LLP,  
Washington, D.C.

**Kevin Underhill**, Shook Hardy & Bacon LLP,  
San Francisco, California

**Hon. Diane M. Welsh (Ret.)**, JAMS,  
Philadelphia, Pennsylvania

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May 6–8, 2015

### **Employment and Labor Law**

*Omni Scottsdale Resort at Montelucia,  
Scottsdale, AZ*

May 7–8, 2015

### **Retail and Hospitality Litigation and Claims Management**

*Loews Chicago Hotel, Chicago, IL*

May 14–15, 2015

### **Drug and Medical Device**

*San Francisco Marriott Marquis,  
San Francisco, CA*

June 4–5, 2015

### **Beyond the Borders: Emerging Issues in Business Litigation**

*Sheraton Toronto Centre,  
Toronto, Canada*

June 11–12, 2015

### **Diversity for Success**

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June 25–26, 2015

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November 4–6, 2015

### **Data Breach and Privacy Law**

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Magnificent Mile, Chicago, IL*

November 5–6, 2015

### **Asbestos Medicine**

*The Cosmopolitan of Las  
Vegas, Las Vegas, NV*

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*Class Action Compendium (coming in 2015)*



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DRI is the largest international membership organization of attorneys defending the interests of business and individuals in civil litigation.

Diversity is a core value at DRI. Indeed, diversity, which includes sexual orientation, is fundamental to the success of the organization, and we seek out and embrace the innumerable benefits and contributions that the perspectives, backgrounds, cultures, and life experiences a diverse membership provides.

Inclusiveness is the chief means to increase the diversity of DRI's membership and leadership positions. DRI's members and potential leaders are often also members and leaders of other defense organizations. Accordingly, DRI encourages all national, state, and local defense organizations to promote diversity and inclusion in their membership and leadership.

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